

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:
In re	:
	:
TOPS HOLDING II CORPORATION, <i>et al.</i> ,	:
	:
Debtors. ¹	:
	:
-----X	

Chapter 11
Case No. 18-22279 (RDD)
(Jointly Administered)

**JOINT CHAPTER 11 PLAN OF REORGANIZATION
OF TOPS HOLDING II CORPORATION AND ITS AFFILIATED DEBTORS**

WEIL, GOTSHAL & MANGES LLP

Ray C. Schrock, P.C.
Stephen Karotkin
Sunny Singh
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

*Attorneys for Debtors and
Debtors in Possession*

Dated: August 31, 2018
New York, New York

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are Tops Holding II Corporation (3709), Tops MBO Corporation (4249), Tops Holding LLC (2536), Tops Markets, LLC (2810), Tops Markets II Corporation (6401), Tops PT, LLC (2050), Tops Gift Card Company, LLC (6105), Erie Logistics LLC (9381), and TM1, LLC (2409).

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Each of Tops Holding II Corporation, Tops MBO Corporation, Tops Holding LLC, Tops Markets, LLC, Tops Markets II Corporation, Tops PT, LLC, Tops Gift Card Company, LLC, Erie Logistics LLC, and TM1, LLC (each, a “**Debtor**” and, collectively, the “**Debtors**”) propose the following joint chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code. Capitalized terms used herein shall have the meanings set forth in Article I.A.

ARTICLE I. DEFINITIONS AND INTERPRETATION.

A. **Definitions.** The following terms shall have the respective meanings specified below:

1.1 ***Accepting Class*** means a Class that votes to accept the Plan in accordance with section 1126 of the Bankruptcy Code.

1.2 ***Acquisition Companies*** means, in the event the LLC Transfer occurs, two or more newly-formed corporate subsidiaries, wholly-owned (directly or indirectly) by Summit, that shall, collectively, purchase substantially all of the Assets of Holdings II, in accordance with the APA and the LLC Transfer Transaction Documents.

1.3 ***Ad Hoc Committee*** means that certain ad hoc committee of beneficial holders of, or the investment advisor or manager to, funds and/or accounts that beneficially hold DIP Term Loan Claims and/or Senior Secured Notes Claims, as such committee may be constituted from time to time, which is represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP and Lazard Freres & Co., LLC.

1.4 ***Administrative Expense Claim*** means a Claim for costs and expenses of administration incurred during the Chapter 11 Cases of a kind specified under section 503(b) of the Bankruptcy Code and entitled to priority under sections 507(a)(2) or 507(b) of the Bankruptcy Code, including (a) the actual and necessary costs and expenses incurred after the Commencement Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors, (b) Fee Claims, and (c) DIP Claims.

1.5 ***Allowed*** means, with reference to any Claim or Interest, a Claim or Interest (a) arising on or before the Effective Date (i) as to which no objection to allowance or priority, and no request for estimation or other challenge, including pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (ii) as to which (and to the extent that) any objection has been determined in favor of the holder of the Claim or Interest by a Final Order, (b) that is compromised, settled, or otherwise resolved pursuant to the authority of the Debtors or Reorganized Debtors, (c) as to which the liability of the Debtors or Reorganized Debtors, as applicable, and the amount thereof are determined by a Final Order, (d) following the Effective Date, with respect to General Unsecured Claims, as may otherwise be determined by the GUC Litigation Trust in accordance with the GUC Litigation Trust Agreement, or (e) expressly allowed hereunder; *provided that* notwithstanding the foregoing, unless expressly waived by the Plan, the Allowed amount of Claims or Interests shall be subject to and shall not exceed the

limitations or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable.

1.6 ***Amended Organizational Documents*** means the forms of certificates of incorporation, certificates of formation, limited liability company agreements, or other forms of organizational documents and bylaws, as applicable, of the Reorganized Debtors or, in the event of an LLC Transfer, Summit.

1.7 ***Amended UFCW Local 1776 KS Collective Bargaining Agreement*** means the UFCW Local 1776 KS Collective Bargaining Agreement as amended in accordance with the UFCW Local 1776 KS's joinder to the settlement described in the UFCW Local One Settlement Motion and approved by the Bankruptcy Court pursuant to the UFCW Local One Settlement Order.

1.8 ***Amended UFCW Local One Collective Bargaining Agreements*** means the UFCW Local One Collective Bargaining Agreements as amended in accordance with the settlement described in the UFCW Local One Settlement Motion and approved by the Bankruptcy Court pursuant to the UFCW Local One Settlement Order.

1.9 ***APA*** means that certain asset purchase agreement, to be entered into prior to the Confirmation Date, among Holdings II and the Acquisition Companies, in the event of the LLC Transfer, to acquire substantially all of the Assets of Holdings II, subject to the assumption of the liabilities of Holdings II that are not discharged under the Plan, all in accordance with the terms therein and of the Plan.

1.10 ***Assets*** means all of the right, title, and interest in and to property of whatever type or nature (including real, personal, mixed, intellectual, tangible, and intangible property).

1.11 ***Assumption Schedule*** means the schedule of executory contracts and unexpired leases to be assumed by the Debtors pursuant to the Plan.

1.12 ***Avoidance Actions*** means any action commenced, or that may be commenced, before or after the Effective Date by or on behalf of the Debtors or their Estates pursuant to sections 506, 544, 545, 547, 548, 549, 550, or 551 of the Bankruptcy Code.

1.13 ***Bankruptcy Code*** means title 11 of the United States Code, 11 U.S.C. § 101, *et seq.*, as amended from time to time, as applicable to the Chapter 11 Cases.

1.14 ***Bankruptcy Court*** means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases.

1.15 ***Bankruptcy Rules*** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Cases.

1.16 ***Benefit Plans*** means each (a) "employee benefit plan" as defined in section 3(3) of ERISA and (b) all other retirement, bonus, incentive (including the Prepetition Incentive

Plans), health, life, disability, group insurance, vacation, holiday, severance, and fringe benefit plan, program, contract, or arrangement (whether written or unwritten) maintained, contributed to, or required to be contributed to, by the Debtors for the benefit of any of their employees or independent contractors, other than those that entitle employees to, or that otherwise give rise to, Interests or consideration based on the value of Interests, in the Debtors.

1.17 **Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.18 **Cash** means legal tender of the United States of America.

1.19 **Cause of Action** means any action, claim, cross-claim, third-party claim, cause of action, controversy, demand, right, lien, indemnity, guaranty, suit, obligation, liability, loss, debt, damage, judgment, account, defense, remedies, offset, power, privilege, license and franchise of any kind or character whatsoever, known, unknown, foreseen or unforeseen, existing or hereafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Commencement Date, in contract or in tort, in law or in equity or pursuant to any other theory of law (including under any state or federal securities laws). Causes of Action also includes: (a) any right of setoff, counterclaim or recoupment and any claim for breach of contract or for breach of duties imposed by law or in equity, (b) the right to object to Claims or Interests, (c) any claim pursuant to section 362 or chapter 5 of the Bankruptcy Code, (d) any claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code, and (e) any state law fraudulent transfer claim.

1.20 **Chapter 11 Cases** means the jointly administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Commencement Date in the Bankruptcy Court.

1.21 **Charging Liens** means any lien or other priority in payment arising prior to the Effective Date to which an Indenture Trustee is entitled pursuant to an Indenture against distributions to be made to the holders of the Senior Secured Notes, the OpCo Unsecured Notes and the HoldCo Unsecured Notes, as applicable, for payment of Indenture Trustee Fees and Expenses.

1.22 **Chief Executive Officer** means the Debtors' current Chief Executive Officer, Mr. Frank Curci.

1.23 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code, as against any Debtor.

1.24 **Class** means any group of Claims or Interests classified as set forth in Article III of the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

1.25 **Collective Bargaining Agreements** means, collectively, the Amended UFCW Local One Collective Bargaining Agreements, the Amended UFCW Local 1776 KS Collective

Bargaining Agreement, the New Teamsters Collective Bargaining Agreements, and the Other Collective Bargaining Agreements.

1.26 **Commencement Date** means February 21, 2018, the date on which the Debtors commenced the Chapter 11 Cases.

1.27 **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

1.28 **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court to consider confirmation of the Plan, as such hearing may be adjourned, reconvened, or continued from time to time.

1.29 **Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.30 **Creditors' Committee** means the statutory committee of unsecured creditors appointed by the U.S. Trustee in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

1.31 **Cure Amount** means the payment of Cash by the Debtors, or the distribution of other property (as the parties may agree or the Bankruptcy Court may order), as necessary to (a) cure a monetary default by the Debtors in accordance with the terms of an executory contract or unexpired lease of the Debtors and (b) permit the Debtors to assume such executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

1.32 **Current Employee Arrangements** means Employment Arrangements for non-union employees who were employed by any of the Debtors on or after the Commencement Date, including the Key Employee Agreements.

1.33 **D&O Liability Insurance Policies** means all insurance policies for directors', managers' and officers' liability maintained by the Debtors as of the Commencement Date, including the fiduciary liability coverage (executive risk) provided through Tokio Marine American Insurance Company for the policy period from February 15, 2017 through August 15, 2018 (Policy No. 14-MGU-17-A39917).

1.34 **Debtor or Debtors** has the meaning set forth in the introductory paragraph of the Plan.

1.35 **Debtors in Possession** means the Debtors in their capacity as debtors in possession in the Chapter 11 Cases pursuant to sections 1101, 1107(a) and 1108 of the Bankruptcy Code.

1.36 **Definitive Documents** means the documents, other than the Plan, including any related orders, agreements, instruments, schedules, or exhibits, that are contemplated herein and that are otherwise necessary or desirable to implement, or otherwise relate to, the Restructuring contemplated in the Plan (including the Plan Supplement), including: (a) the Disclosure Statement, (b) the materials related to the solicitation of the Plan, (c) the Disclosure Statement

Order, (d) the Confirmation Order, (e) the Management Incentive Plan, (f) the Exit ABL Documents, (g) the Exit Term Loan Documents, (h) the New Second Lien Notes Documents, (i) the Shareholders Agreement, (j) the GUC Litigation Trust Agreement, (k) the LLC Transfer Transaction Documents (if applicable), (l) any documents included in the Plan Supplement, (m) the Amended Organizational Documents, (n) other related transactional or corporate documents (including any agreements and documents described in the Plan and customary closing deliverables required under the Exit ABL Documents, the Exit Term Loan Documents, or the New Second Lien Notes Indenture), and (o) the motions or pleadings seeking approval or confirmation of any of the foregoing, each of which shall contain terms and conditions consistent in all material respects with the Plan and shall otherwise be in form and substance reasonably satisfactory in all respects to the Debtors, the Requisite Ad Hoc Committee Members, and, with respect to the GUC Litigation Trust Agreement, the Creditors' Committee.

1.37 ***DIP ABL Agent*** means Bank of America, N.A., as administrative and collateral agent under the DIP ABL Credit Agreement, and its successors and assigns, or any replacement agent appointed pursuant to the terms of the DIP ABL Documents.

1.38 ***DIP ABL Claim*** means any Claim arising from, or related to, the DIP ABL Documents.

1.39 ***DIP ABL Credit Agreement*** means that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of February 23, 2018, by and among Tops Markets, LLC, as lead borrower, the borrowers party thereto, the DIP ABL Agent, each of the guarantors named therein, and the DIP ABL Lenders, as amended, supplemented, restated, or otherwise modified from time to time, as approved by the Bankruptcy Court pursuant to the DIP Order.

1.40 ***DIP ABL Documents*** means collectively, the DIP ABL Credit Agreement and all other "Loan Documents" (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or entered into in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time).

1.41 ***DIP ABL Lenders*** means the lenders under the DIP ABL Credit Agreement and each other party that becomes a lender thereunder from time to time in accordance with the terms of the DIP ABL Credit Agreement.

1.42 ***DIP ABL Priority Collateral*** has the meaning set forth in the DIP Order, which, for the avoidance of doubt, shall not include Avoidance Actions.

1.43 ***DIP Claims*** means, collectively, the DIP ABL Claims and the DIP Term Loan Claims and any other Claims of the DIP Lenders arising under the DIP Order, including the DIP Professional Fees.

1.44 ***DIP Lenders*** means, collectively, the DIP ABL Lenders and the DIP Term Loan Lenders.

1.45 **DIP Order** means the *Final Order (I) Authorizing Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (v) Modifying Automatic Stay, and (VI) Granting Related Relief* (ECF No. 238).

1.46 **DIP Professional Fees** means, as of the Effective Date, all accrued and unpaid professional fees and expenses payable pursuant to paragraphs 17 and 35 of the DIP Order.

1.47 **DIP Term Loan Agent** means Cortland Capital Market Services LLC, as administrative and collateral agent for the DIP Term Loan Lenders under the DIP Term Loan Credit Agreement.

1.48 **DIP Term Loan Credit Agreement** means that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of February 23, 2018 by and among Tops Markets, LLC, as initial borrower, the borrowers party thereto from time to time, the guarantors party thereto, the DIP Term Loan Agent, and the DIP Term Loan Lenders, as amended, supplemented, restated, or otherwise modified from time to time, as approved by the Bankruptcy Court pursuant to the DIP Order.

1.49 **DIP Term Loan Claim** means any Claim arising from, or related to, the DIP Term Loan Documents.

1.50 **DIP Term Loan Documents** means, collectively, the DIP Term Loan Credit Agreement and all other “Loan Documents” (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or entered into in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time).

1.51 **DIP Term Loan Lenders** means the lenders under the DIP Term Loan Credit Agreement and each other party that becomes a lender thereunder from time to time in accordance with the terms of the DIP Term Loan Credit Agreement.

1.52 **DIP Term Loan Priority Collateral** has the meaning set forth in the DIP Order, *provided that* DIP Term Loan Priority Collateral shall not include Avoidance Actions.

1.53 **Disallowed** means, with respect to any Claim or Interest, that such Claim or Interest is not Allowed.

1.54 **Disbursing Agent** means any Entity (including any applicable Debtor or Reorganized Debtor if it acts in such capacity) in its capacity as a disbursing agent under Article VI of the Plan, *provided that* with respect to distributions to the GUC Litigation Trust Beneficiaries, the GUC Litigation Trustee shall distribute the GUC Litigation Trust Distributable Proceeds as and when provided for in the GUC Litigation Trust Agreement.

1.55 **Disclosure Statement** means the disclosure statement for the Plan, as approved by the Bankruptcy Court pursuant to the Disclosure Statement Order.

1.56 ***Disclosure Statement Order*** means the order entered by the Bankruptcy Court finding that the Disclosure Statement contains adequate information pursuant to section 1125 of the Bankruptcy Code and authorizing solicitation of the Plan.

1.57 ***Disputed*** means with respect to a Claim or Interest, any such Claim or Interest (a) that is neither Allowed nor Disallowed under the Plan or a Final Order, nor deemed Allowed under sections 502, 503, or 1111 of the Bankruptcy Code, (b) that has not been Allowed and is listed as unliquidated, contingent or disputed in the Schedules, or (c) for which a proof of claim for payment has been made and related to which the Debtors or any party in interest has interposed a timely objection or request for estimation, and such objection or request for estimation has not been withdrawn or determined by a Final Order. If the Debtors or a party in interest dispute only a portion of a Claim, such Claim shall be deemed Allowed in any amount the Debtors or such party in interest do not dispute, and shall be deemed Disputed as to the balance of such Claim.

1.58 ***Distribution Record Date*** means the Effective Date of the Plan.

1.59 ***DTC*** means The Depository Trust Company.

1.60 ***Effective Date*** means the date on which all conditions to the effectiveness of the Plan set forth in Article IX hereof have been satisfied or waived in accordance with the terms of the Plan.

1.61 ***Employment Arrangements*** means, as to an employee, officer, director, or contractor, all terms of employment, compensation and Benefit Plans existing as of the Effective Date, including any employment, services, separation, retention, incentive, bonus, or related agreements or arrangements.

1.62 ***Entity*** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, Governmental Unit or any political subdivision thereof, or other Person or other entity.

1.63 ***ERISA*** means the Employee Retirement Income Security Act of 1974, as amended.

1.64 ***Estate or Estates*** means, individually or collectively, the estate or estates of the Debtors created under section 541 of the Bankruptcy Code.

1.65 ***Exculpated Parties*** means, collectively, in each case, solely in their capacities as such: (a) the Debtors, (b) the Reorganized Debtors, (c) Summit and the Acquisition Companies, if applicable, (d) the Ad Hoc Committee and each of its members, (e) the DIP ABL Agent, (f) the DIP ABL Lenders, (g) the Senior Secured Notes Trustee, (h) the DIP Term Loan Agent, (i) the DIP Term Loan Lenders, (j) the Exit ABL Agent, (k) the Exit ABL Lenders, (l) the Exit Term Loan Agent, (m) the Exit Term Loan Lenders, (n) if the Bankruptcy Court enters the UFCW Local One Settlement Order, the UFCW Local One and the UFCW Local One Benefit Funds, (o) the Creditors' Committee and each of its members, and (p) with respect to each of the

foregoing entities in clauses (a) through (o), all Related Parties who acted on their behalf in connection with the matters as to which exculpation is provided herein.

1.66 ***Existing Holdings II Interests*** means all Interests in Holdings II.

1.67 ***Existing MBO Interests*** means all Interests in Tops MBO Corporation.

1.68 ***Exit ABL Agent*** means the administrative agent under the Exit ABL Documents, and its successors and assigns, or any replacement agent appointed pursuant to the terms of the Exit ABL Documents.

1.69 ***Exit ABL Credit Agreement*** means that certain amended and restated credit agreement, which shall be effective on the Effective Date, by and among Reorganized Tops Markets, the Exit ABL Agent, and the Exit ABL Lenders, containing terms substantially consistent with the Exit ABL Credit Agreement Term Sheet.

1.70 ***Exit ABL Credit Agreement Term Sheet*** means that certain term sheet, attached hereto as **Exhibit A**, setting forth the principal terms of the Exit ABL Credit Agreement, which terms shall not be modified without the consent of the Exit ABL Agent.

1.71 ***Exit ABL Documents*** means, collectively, the Exit ABL Credit Agreement and all other "Loan Documents" (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time), each of which shall be, to the extent applicable, consistent with the Exit ABL Credit Agreement Term Sheet.

1.72 ***Exit ABL Facility*** means the revolving facility to be provided to Reorganized Tops Markets on the Effective Date on the terms and conditions set forth in the Exit ABL Documents in an aggregate principal amount equal to \$140,000,000.

1.73 ***Exit ABL Lenders*** means the lenders under the Exit ABL Credit Agreement and each other party that becomes a lender thereunder from time to time in accordance with the terms of the Exit ABL Credit Agreement.

1.74 ***Exit Term Loan Agent*** means the administrative agent under the Exit Term Loan Credit Agreement, its successors, assigns, or any replacement agent appointed pursuant to the terms of the Exit Term Loan Documents.

1.75 ***Exit Term Loan Credit Agreement*** means that certain amended and restated credit agreement, which shall be effective on the Effective Date, by and among Reorganized Tops Markets, the Exit Term Loan Agent, and the Exit Term Loan Lenders, containing terms substantially consistent with the Exit Term Loan Credit Agreement Term Sheet.

1.76 ***Exit Term Loan Credit Agreement Term Sheet*** means that certain term sheet, attached hereto as **Exhibit B**, setting forth the principal terms of the Exit Term Loan Credit Agreement.

1.77 ***Exit Term Loan Documents*** means, collectively, the Exit Term Loan Credit Agreement and all other “Loan Documents” (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time), each of which shall be, to the extent applicable, substantially consistent with the Exit Term Loan Credit Agreement Term Sheet.

1.78 ***Exit Term Loan Lenders*** means the lenders under the Exit Term Loan Credit Agreement and each other party that becomes a lender thereunder from time to time in accordance with the terms of the Exit Term Loan Credit Agreement.

1.79 ***Exit Term Loans*** means the term loans to be provided to Reorganized Tops Markets on the Effective Date on the terms and conditions set forth in the Exit Term Loan Documents in an aggregate principal amount equal to (a) the amounts outstanding and payable under the DIP Term Loan Documents on the Effective Date plus (b) \$35,000,000.

1.80 ***Fee Claim*** means a Claim for professional services rendered or out-of-pocket costs incurred on or after the Commencement Date through the Effective Date by professional persons retained by the Debtors or the Creditors’ Committee by an order of the Bankruptcy Court pursuant to sections 327, 328, 329, 330, 331, 503(b), or 1103 of the Bankruptcy Code in the Chapter 11 Cases (including any fees of a professional held back pursuant to the Interim Compensation Order).

1.81 ***Final Order*** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated, or stayed and as to which (a) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument, or rehearing shall have expired; *provided that* no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

1.82 ***First Day Wage Motion*** means the *Motion of Debtors for Authority, But Not Direction, to (A) Pay Certain Prepetition Wages and Reimbursable Employee Expenses, (B) Pay and Honor Employee Medical and Other Benefits, and (C) Continue Employee Benefits Programs, and for Related Relief* (ECF No. 6).

1.83 ***Former Employee Arrangements*** means the Employment Arrangements for non-union employees of the Debtors who were not employed by the Debtors on or after the Commencement Date.

1.84 **General Management Incentive Plan** has the meaning set forth in the First Day Wage Motion.

1.85 **General Unsecured Claim** means any Claim against any of the Debtors that is (a) not an Administrative Expense Claim, Priority Tax Claim, Priority Non-Tax Claim, Other Secured Claim, Senior Secured Notes Claim, or Intercompany Claim, (b) any Claim for damages resulting from or based on the Debtors' rejection of an executory contract or unexpired lease, or (c) determined by the Bankruptcy Court to be a prepetition general unsecured claim that is not entitled to priority or subject to subordination pursuant to the Plan.

1.86 **Global Settlement** has the meaning set forth in Section 5.3(b) hereof.

1.87 **Governmental Unit** has the meaning set forth in section 101(27) of the Bankruptcy Code.

1.88 **Guarantee Claim** means a General Unsecured Claim based upon a prepetition unsecured guarantee by one Debtor in support of any other Debtor or any other joint or co-Debtor obligation or liability among two or more of the Debtors.

1.89 **GUC Litigation Trust** means the litigation trust established pursuant to Article 5.2 of the Plan and the GUC Litigation Trust Agreement.

1.90 **GUC Litigation Trust Agreement** means the GUC Litigation trust agreement by and among the Debtors and the GUC Litigation Trustee, substantially in the form included in the Plan Supplement and consistent with Section 5.21(g) of the Plan.

1.91 **GUC Litigation Trust Assets** means the GUC Litigation Trust Payment, any Other GUC Litigation Trust Financing and the GUC Litigation Trust Causes of Action.

1.92 **GUC Litigation Trust Beneficiaries** means the holders of GUC Litigation Trust Interests.

1.93 **GUC Litigation Trust Causes of Action** means (a) all Causes of Action by or on behalf of any Debtor against any member of the Prior Sponsor Group, including Causes of Action arising under the Bankruptcy Code, state fraudulent transfer statutes and claims arising under state law based upon negligence, breach of fiduciary duty, lender liability, and/or other similar Causes of Action, (b) all Causes of Action of the Debtors and the Reorganized Debtors arising under any D&O Liability Insurance Policy solely to the extent such Causes of Action are based on Causes of Action described in sub-section (a) of this Section 1.93 and to the extent assignable to the GUC Litigation Trust pursuant to the terms of the applicable D&O Liability Insurance Policy, and (c) any Avoidance Actions against holders of General Unsecured Claims that may be asserted as a defense to such General Unsecured Claims by the Debtors, their Estates, or the Reorganized Debtors pursuant to section 502(d) of the Bankruptcy Code.

1.94 **GUC Litigation Trust Distributable Proceeds** means all actual proceeds of the GUC Litigation Trust Assets.

1.95 ***GUC Litigation Trust Interests*** means the non-transferable interests in the GUC Litigation Trust, distributions of which will be made to holders of Allowed General Unsecured Claims in accordance with Section 4.4 of the Plan.

1.96 ***GUC Litigation Trust Payment*** means a one-time, non-refundable payment of an amount of Cash to be set forth in the GUC Litigation Trust Agreement to be provided by the Debtors to the GUC Litigation Trust on the Effective Date, which payment shall be used either to fund a distribution to holders of GUC Litigation Trust Interests, to provide funding in connection with the investigation and/or prosecution of the GUC Litigation Trust Causes of Action and/or for such other purposes determined by the GUC Litigation Trustee in its sole discretion and consistent with the GUC Litigation Trust Agreement and applicable law.

1.97 ***GUC Litigation Trustee*** means the Person selected by the Creditors' Committee and identified in the Plan Supplement to serve as the trustee of the GUC Litigation Trust, and any successor thereto, appointed pursuant to the GUC Litigation Trust Agreement.

1.98 ***HoldCo Unsecured Notes*** means those certain 8.750% / 9.500% senior notes due 2018 issued pursuant to the HoldCo Unsecured Notes Indenture, in the aggregate outstanding principal amount of \$8,600,000.

1.99 ***HoldCo Unsecured Notes Claim*** means any Claim arising from, or related to, the HoldCo Unsecured Notes.

1.100 ***HoldCo Unsecured Notes Indenture*** means that certain indenture by and among Holdings II, as issuer, and the HoldCo Unsecured Notes Trustee, dated as of May 15, 2013, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

1.101 ***HoldCo Unsecured Notes Trustee*** means U.S. Bank National Association, as trustee under the HoldCo Unsecured Notes Indenture, and its successors, assigns, or any replacement trustee appointed pursuant to the terms of the HoldCo Unsecured Notes Indenture.

1.102 ***Holdings II*** means Tops Holding II Corporation.

1.103 ***Impaired*** means, with respect to a Claim, Interest, or Class of Claims or Interests, "impaired" within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.104 ***Indentures*** means, collectively, the Senior Secured Notes Indenture, the HoldCo Unsecured Notes Indenture, and the OpCo Unsecured Notes Indenture.

1.105 ***Indenture Trustees*** means, collectively, the Senior Secured Notes Trustee, the HoldCo Unsecured Notes Trustee, and the OpCo Unsecured Notes Trustee.

1.106 ***Indenture Trustee Fees and Expenses*** means the claims for reasonable and compensation, fees, expenses, disbursements, advancements, and any other amounts due to the Indenture Trustees arising under the applicable Indentures, including, among other things, attorneys' fees, expenses and disbursements, incurred by the Indenture Trustees prior to the Commencement Date and through and including the Effective Date.

1.107 ***Independent Director*** has the meaning described in the New York Stock Exchange Listed Company Manual.

1.108 ***Insiders*** means, on the Effective Date, collectively, (a) the Chief Executive Officer, (b) the Debtors' current President and Chief Operating Officer, (c) the Debtors' current Executive Vice President and Chief Financial Officer, (d) the Debtors' current Executive Vice President, Human Resources, and (e) the Debtors' current Executive Vice President, Operations.

1.109 ***Intercompany Claim*** means any pre- or postpetition Claim against a Debtor held by another Debtor.

1.110 ***Intercompany Interest*** means an Interest in a Debtor other than Holdings II held by another Debtor.

1.111 ***Interests*** means any equity security in a Debtor as defined in section 101(16) of the Bankruptcy Code, including all common stock, preferred stock, or other instruments evidencing an ownership interest in any of the Debtors, whether or not transferable, and any option, warrant, right, or any other interest that is exercisable, convertible, or exchangeable into equity of a Debtor, contractual or otherwise, including equity or equity-based incentives, grants, or other instruments issued, granted, or promised to be granted to current or former employees, directors, officers, or contractors of the Debtors, to acquire any such interests in a Debtor that existed immediately before the Commencement Date.

1.112 ***Interim Compensation Order*** means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* (ECF No. 192).

1.113 ***KERP Order*** means the *Order Approving Debtors' Key Employee Retention Plan* (ECF No. 484).

1.114 ***Key Employee Agreements*** means the employment agreements identified on **Exhibit E** to the Plan, as amended, which agreements shall be in form and substance reasonably acceptable to the Requisite Ad Hoc Committee Members.

1.115 ***Lien*** has the meaning set forth in section 101(37) of the Bankruptcy Code.

1.116 ***LLC Transfer*** means the transfer of substantially all of Holdings II's Assets to the Acquisition Companies in accordance with the APA and the other LLC Transfer Transactions pursuant to section 1123 of the Bankruptcy Code.

1.117 ***LLC Transfer Election Date*** means the day that is 14 days prior to the Voting Deadline.

1.118 ***LLC Transfer Transaction Documents*** means the APA and any other documents setting forth the definitive terms of the LLC Transfer Transactions.

1.119 ***LLC Transfer Transactions*** means the LLC Transfer and the transactions that will be undertaken in connection with the LLC Transfer, which shall be described in the Plan Supplement.

1.120 **Management Incentive Plan** means the post-emergence management incentive plan to be adopted and to become effective on the Effective Date under which, among other things, [•]% of the New Equity Interests outstanding on a fully diluted basis issued on the Effective Date shall be issued and reserved for issuance to certain of the Reorganized Debtors' employees on the terms set forth in the Management Incentive Plan Term Sheet.

1.121 **Management Incentive Plan Term Sheet** means that certain term sheet attached hereto as **Exhibit D** that sets forth the principal terms of the Management Incentive Plan.

1.122 **Merger** has the meaning set forth in Section 5.6 of the Plan.

1.123 **New Board** means the board of directors of Reorganized Holdings or Summit, as applicable.

1.124 **New Equity Interests** means the shares of common stock, par value \$.001 per share, or equity interests of Reorganized Holdings or, in the event of an LLC Transfer, Summit.

1.125 **New Teamsters Collective Bargaining Agreements** means the new collective bargaining agreements between the Debtors and the Teamsters Local 264, as authorized by the Bankruptcy Court pursuant to the Teamsters Settlement Order.

1.126 **New Second Lien Notes** means the second lien notes to be issued by Reorganized Tops Markets in the principal amount of \$100,000,000 on the terms and conditions set forth in the New Second Lien Notes Documents.

1.127 **New Second Lien Notes Documents** means collectively, the New Second Lien Notes Indenture and all other "Notes Documents" (as defined therein), including all other agreements, documents, and instruments delivered or entered into pursuant thereto or in connection therewith (including any guarantee agreements and collateral documentation) (in each case, as amended, restated, modified, or supplemented from time to time), each of which shall be, to the extent applicable, substantially consistent with the New Second Lien Notes Indenture Term Sheet.

1.128 **New Second Lien Notes Indenture** means that certain indenture dated as of the Effective Date, with Reorganized Tops Markets, as issuer, entered into in connection with the New Second Lien Notes, containing terms substantially consistent with the New Second Lien Notes Indenture Term Sheet.

1.129 **New Second Lien Notes Indenture Term Sheet** means that certain term sheet, attached hereto as **Exhibit C**, setting forth the principal terms of the New Second Lien Notes Indenture.

1.130 **OpCo Unsecured Notes Claim** means any Claim arising from, or related to, the OpCo Unsecured Notes.

1.131 **OpCo Unsecured Notes Indenture** means that certain indenture by and among Tops Markets II Corporation and Tops Holding LLC, as issuers, the guarantor parties thereto,

and the OpCo Unsecured Notes Trustee, dated as of August 9, 2017, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

1.132 **OpCo Unsecured Notes** means those certain 9.000% senior amortizing notes due 2021 issued pursuant to the OpCo Unsecured Notes Indenture, in the aggregate outstanding principal amount of \$67,500,000.

1.133 **OpCo Unsecured Notes Trustee** means U.S. Bank National Association, as trustee under the OpCo Unsecured Notes Indenture, and its successors, assigns, or any replacement trustee appointed pursuant to the terms of the OpCo Unsecured Notes Indenture.

1.134 **Other Collective Bargaining Agreements** means, collectively, (a) that certain Agreement, dated July 29, 2016, by and between Tops Markets, LLC and UFCW Local 1500, as amended, (b) that certain Agreement, dated April 16, 2015, by and between Tops Markets, LLC and UFCW, Local 1776, as amended, (c) that certain Agreement, dated February 9, 2014, by and between Tops Markets, LLC (as successor to The Stop & Shop (New York) Supermarket Company) and UFCW, Local 1262, as amended, (d) that certain Agreement, dated June 19, 2016, by and between Tops Markets, LLC (as successor to The Stop & Shop Supermarket Company) and UFCW, Local 464A, as amended, (e) that certain Agreement, dated February 28, 2016, by and between Tops Markets, LLC (as successor to The Stop & Shop Supermarket Company, LLC) and UFCW, Local 1445 (Clerks), (f) that certain Agreement, dated February 28, 2016, by and between Tops Markets, LLC (as successor to The Stop & Shop Supermarket Company LLC) and UFCW, Local 1445 (Meat), and (g) that certain Agreement, dated October 4, 2015 by and between Tops Markets, LLC Adirondack Division and UFCW, Local One.

1.135 **Other GUC Litigation Trust Financing** means any financing provided to the GUC Litigation Trust by a third-party other than the Debtors.

1.136 **Other Secured Claim** means a Secured Claim, other than an Administrative Expense Claim, a Priority Tax Claim, or a Senior Secured Notes Claim.

1.137 **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

1.138 **Plan** means this joint chapter 11 plan, including all appendices, exhibits, schedules, and supplements hereto (including any appendices, schedules, and supplements to the Plan contained in the Plan Supplement), as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code and the terms hereof.

1.139 **Plan Objection Deadline** means the deadline set by the Bankruptcy Court by which parties in interest must file objections to confirmation of the Plan.

1.140 **Plan Supplement** means a supplemental appendix to the Plan containing, among other things, substantially final forms of documents, schedules, and exhibits to the Plan to be filed with the Bankruptcy Court, including the following: (a) the Amended Organizational Documents (to the extent such Amended Organizational Documents reflect material changes from the Debtors' existing organizational documents and bylaws), (b) the Shareholders Agreement, (c) the Management Incentive Plan Term Sheet or the Management Incentive Plan,

(d) the identity of the GUC Litigation Trustee, (e) the GUC Litigation Trust Agreement, (f) the LLC Transfer Transaction Exhibit, (g) the Assumption Schedule, and (h) to the extent known, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code; *provided that*, through the Effective Date, the Debtors shall have the right to amend and supplement the Plan Supplement and any schedules, exhibits, or amendments thereto, in accordance with the terms of the Plan. The Plan Supplement shall be filed with the Bankruptcy Court not later than seven (7) calendar days prior to the Voting Deadline.

1.141 ***Prepetition ABL Agent*** means Bank of America, N.A., as administrative and collateral agent under the Prepetition ABL Credit Agreement, and its successors and assigns, or any replacement agent appointed pursuant to the terms of Prepetition ABL Credit Agreement.

1.142 ***Prepetition ABL Credit Agreement*** means that certain Second Amended and Restated Credit Agreement, dated as of December 30, 2016, by and among Tops Markets, LLC, as lead borrower, the borrowers party thereto, the Prepetition ABL Agent, each of the guarantors named therein, and the Prepetition ABL Lenders, as amended, supplemented, restated, or otherwise modified from time to time.

1.143 ***Prepetition ABL Lenders*** means the lenders under the Prepetition ABL Credit Agreement.

1.144 ***Prepetition Incentive Plans*** means, collectively: (a) the General Management Incentive Plan, (b) the Store Management Incentive Plan, and (c) the Warehouse Management Incentive Plan.

1.145 ***Priority Non-Tax Claim*** means any Claim, other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

1.146 ***Priority Tax Claim*** means any Secured Claim or unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.147 ***Prior Sponsor Group*** means, collectively: (a) MS Capital Partners Adviser Inc., (b) Morgan Stanley Private Equity, (c) Morgan Stanley Capital Partners V U.S. Holdco LLC, a/k/a North Haven Capital Partners V U.S. Holdco LLC, (d) MS Alternatives Funding, Inc., (e) Morgan Stanley & Co. LLC, (f) Graycliff Partners LP, (g) HSBC Equity Partners USA, L.P., (h) HSBC Private Equity Partners II USA, L.P., (i) HSBC Private Equity Advisors LLC, (j) Turbic, Inc., (k) Begain Company Limited, (l) Gary Mathews, (m) Eric Kanter, (n) Eric Fry, (o) Greg Josefowicz, (p) Stacey Rauch, (q) Houlihan Lokey Financial Advisors, Inc., (r) Duff & Phelps, LLC, (s) William R. Mills, and (t) as to each such Entity listed in (a) through (s) of this definition, each of such Entities' respective predecessors, successors and assigns, parents, subsidiaries, affiliates and managed accounts or funds, current and former officers, directors, principals, shareholders (and any fund managers, fiduciaries or other agents of such shareholders), members (and any fund managers, fiduciaries or other agents of such members), partners, general partners and limited partners (and any fund managers, fiduciaries or other agents of such general partners and limited partners), employees, agents, advisory board

members, and such persons' respective heirs, executors, estates, servants and nominees, *provided that* this definition shall exclude the Debtors, the Reorganized Debtors, their current and future subsidiaries and affiliates, and their current and former officers, directors, employees and individual shareholders, other than those expressly named in (a) through (s) of this definition.

1.148 ***Pro Rata*** means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims and Disputed Claims in such Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims and Disputed Claims in a particular Class and other Classes entitled to share in the same recovery as such Class under the Plan.

1.149 ***Reinstate, Reinstated, or Reinstatement*** means leaving a Claim Unimpaired under the Plan pursuant to section 1124(a)(2) of the Bankruptcy Code.

1.150 ***Related Parties*** means with respect to any Released Party or any Exculpated Party, an Entity's predecessors, successors and assigns, parents, subsidiaries, affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders (and any fund managers, fiduciaries or other agents of shareholders with any involvement related to the Debtors), members, partners, employees, agents, trustees, advisory board members, financial advisors, attorneys, accountants, actuaries, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such persons' respective heirs, executors, estates, servants and nominees.

1.151 ***Released Parties*** means, collectively, and in each case, solely in their capacities as such: (a) the Debtors, (b) the Reorganized Debtors, (c) Summit and the Acquisition Companies, if applicable, (d) the Ad Hoc Committee and each of its members, (e) the DIP ABL Agent, (f) the DIP ABL Lenders, (g) the Prepetition ABL Agent, (h) the Prepetition ABL Lenders, (i) the Senior Secured Notes Trustee, (j) the DIP Term Loan Agent, (k) the DIP Term Loan Lenders, (l) the Exit ABL Agent, (m) the Exit ABL Lenders, (n) the Exit Term Loan Agent, (o) the Exit Term Loan Lenders, (p) if the Bankruptcy Court enters the UFCW Local One Settlement Order, the UFCW Local One and the UFCW Local One Benefit Funds; (q) the Creditors' Committee and each of its members; (r) the GUC Litigation Trust; and (s) with respect to each of the foregoing entities in clauses (a) through (r), all Related Parties. For the avoidance of doubt, the Debtors' current and former directors, officers, employees, and shareholders shall each be a Released Party under the Plan, other than those expressly named in (a) through (s) of the definition of Prior Sponsor Group.

1.152 ***Reorganized Debtors*** means each of the Debtors, as reorganized pursuant to and under the Plan, including any transferee or successor thereto by merger, consolidation, transfer or otherwise, on or after the Effective Date, including the Acquisition Companies, except that, in the event the LLC Transfer occurs, Reorganized Debtors shall exclude Tops MBO Corporation, Holdings II, and Tops Markets II Corporation.

1.153 ***Reorganized Holdings*** means Tops MBO Corporation as reorganized on the Effective Date, after giving effect to the Merger, in accordance with the Plan.

1.154 ***Reorganized Tops Markets*** means Tops Markets, LLC as reorganized on the Effective Date in accordance with the Plan.

1.155 ***Requisite Ad Hoc Committee Members*** means, as of the date of determination, members of the Ad Hoc Committee collectively holding at least a majority in aggregate principal amount of the Senior Secured Notes held by the members of the Ad Hoc Committee at that time.

1.156 ***Restructuring*** means the restructuring of the Debtors, the principal terms of which are set forth in the Plan and the Plan Supplement.

1.157 ***Schedules*** means, collectively, the schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code and in substantial accordance with the Official Bankruptcy Forms, as the same may have been amended, modified, or supplemented from time to time.

1.158 ***Secured Claim*** means a Claim (a) secured by a Lien on collateral to the extent of the value of such collateral as (i) set forth in the Plan, (ii) agreed to by the holder of such Claim and the Debtors, or (iii) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code.

1.159 ***Security*** means any Security, as such term is defined in section 101(49) of the Bankruptcy Code.

1.160 ***Senior Secured Notes Claim*** means any Claim arising from, or related to, the Senior Secured Notes.

1.161 ***Senior Secured Notes Indenture*** means that certain indenture by and among Tops Markets II Corporation and Tops Holding LLC, as issuers, the guarantor parties thereto, and the Senior Secured Notes Trustee, dated as of June 10, 2015, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

1.162 ***Senior Secured Notes*** means those certain 8.000% senior secured notes due 2022 issued pursuant to the Senior Secured Notes Indenture, in the aggregate outstanding principal amount of \$560,000,000.

1.163 ***Senior Secured Notes Deficiency Claim*** means any deficiency Claim in respect of any Senior Secured Notes Claim.

1.164 ***Senior Secured Notes Trustee*** means Ankura Trust Company, LLC as successor trustee under the Senior Secured Notes Indenture and its successors, assigns, or any replacement trustee appointed pursuant to the terms of the Senior Secured Notes Indenture.

1.165 ***Shareholders Agreement*** means that certain Shareholders Agreement substantially in the form included in the Plan Supplement.

1.166 ***Store Management Incentive Plan*** has the meaning set forth in the First Day Wage Motion.

1.167 ***Subordinated Securities Claims*** means a Claim subject to subordination under section 510(b) of the Bankruptcy Code, including any Claim for or that arises from the rescission of a purchase, sale, issuance or offer of a Security of any of the Debtors, or for damages arising from the purchase or sale of such a Security, or for reimbursement, indemnification, or contribution allowed under section 502 of the Bankruptcy Code on account of such Claim.

1.168 ***Summit*** means a newly-formed corporation (or a limited liability company that elects to be taxable as a corporation) that owns, directly or indirectly, all of the outstanding stock of the Acquisition Companies.

1.169 ***Tax Code*** means the Internal Revenue Code of 1986, as amended from time to time.

1.170 ***Teamsters Local 264*** means the International Brotherhood of Teamsters Local 264.

1.171 ***Teamsters Settlement Order*** means the *Order (I) Authorizing and Approving (B) Global Settlement Among Debtors, New York State Teamsters Conference Pension & Retirement Fund and C&S Wholesale Grocers, Inc., (B) Debtors' Entry into New Collective Bargaining Agreements with International Brotherhood of Teamsters Local 264, and (C) Debtors' Assumption of Supply Agreements with C&S Wholesale Grocers, Inc. and (II) Granting Related Relief* (ECF No. 431).

1.172 ***UFCW Local 1776 KS*** means the United Food and Commercial Workers International Union District Union Local 1776 KS.

1.173 ***UFCW Local 1776 KS Collective Bargaining Agreement*** means that certain Agreement, dated October 6, 2017, by and between Tops Markets, LLC and UFCW, Local 1776 KS (formerly UFCW Local 23).

1.174 ***UFCW Local One*** means the United Food and Commercial Workers International Union District Union Local One.

1.175 ***UFCW Local One Benefit Funds*** means, collectively, (a) the UFCW Local One Pension Fund and (b) the UFCW Local One Healthcare Fund.

1.176 ***UFCW Local One Benefit Funds Professional Fees*** means, as of the Effective Date, all accrued and unpaid professional fees payable pursuant to paragraph 7 of the UFCW Local One Benefit Funds Settlement Agreement.

1.177 ***UFCW Local One Benefit Funds Settlement Agreement*** means the UFCW Local One Benefit Funds Settlement Agreement attached as Exhibit B to the UFCW Local One Settlement Motion, as amended (ECF No. 532).

1.178 ***UFCW Local One Collective Bargaining Agreements*** means, collectively, (a) that certain Agreement between Tops Market, LLC Buffalo Division and United Food and Commercial Workers International Union District Union Local One, effective April 23, 2017, (b) that certain Agreement between Tops Market, LLC Rochester Division and United Food and Commercial Workers International Union District Union Local One, effective July 31, 2017, (c) that certain Agreement between Tops Market, LLC Olean/Bradford/Wellsville Division and United Food and Commercial Workers International Union District Union Local One, effective April 23, 2017, and (d) that certain Agreement between Tops Market, LLC Midstate Division and United Food and Commercial Workers International Union District Union Local One, effective April 2, 2017.

1.179 ***UFCW Local One Modification Order*** means an order of the Bankruptcy Court, among other things, (a) modifying the terms of the UFCW Local One Collective Bargaining Agreements and the UFCW Local 1776 KS Collective Bargaining Agreement on terms substantially similar to those set forth in the UFCW Local One Settlement Motion, or on terms otherwise acceptable to the Debtors and the Requisite Ad Hoc Committee Members and (b) authorizing the Debtors' complete withdrawal from the UFCW Local One Pension Fund.

1.180 ***UFCW Local One Settlement*** means the settlement described in the UFCW Local One Settlement Motion and approved by the Bankruptcy Court pursuant to the UFCW Local One Settlement Order.

1.181 ***UFCW Local One Settlement Agreement*** means the Debtors and UFCW District Union Local One Settlement Agreement attached as Exhibit A to the UFCW Local One Settlement Motion.

1.182 ***UFCW Local One Settlement Motion*** means the *Debtors' Motion for (I) Authorization and Approval of (A) Global Settlement Among Debtors, United Food and Commercial Workers International Union District Union Local One and United Food and Commercial Workers Local One Benefit Funds and (B) Assumption of Amended Collective Bargaining Agreements and (II) Related Relief* (ECF No. 501).

1.183 ***UFCW Local One Settlement Order*** means the *Order (I) Authorizing and Approving (A) Global Settlement Among Debtors, United Food and Commercial Workers International Union District Union Local One and United Food and Commercial Workers Local One Benefit Funds and (B) Assumption of Amended Collective Bargaining Agreements and (II) Related Relief* (ECF No. 542).

1.184 ***UFCW Local One Pension Fund*** means the United Food and Commercial Workers Local One Pension Fund.

1.185 ***UFCW Local One Professional Fees*** means, collectively, the UFCW Local One Union Professional Fees and the UFCW Local One Benefit Funds Professional Fees.

1.186 ***UFCW Local One Union Professional Fees*** means, as of the Effective Date, all accrued and unpaid professional fees payable pursuant to paragraph 14 of the UFCW Local One Settlement Agreement.

1.187 ***Unimpaired*** means, with respect to a Claim, Interest, or Class of Claims or Interests, not “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.188 ***U.S. Trustee*** means the Office of the United States Trustee for the Southern District of New York.

1.189 ***Voting Deadline*** means the date set by the Bankruptcy Court by which all completed ballots must be received.

1.190 ***Voting Agent*** means Epiq Bankruptcy Solutions, LLC, the Debtors’ voting agent.

1.191 ***Warehouse Management Incentive Program*** has the meaning set forth in the First Day Wage Motion.

B. Interpretation; Application of Definitions and Rules of Construction.

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. For purposes herein: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender, (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions, (3) unless otherwise specified, all references herein to “Sections” are references to Sections hereof or hereto, (4) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply, and (5) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

C. Reference to Monetary Figures.

All references in the Plan to monetary figures shall refer to the legal tender of the United States of America, unless otherwise expressly provided.

D. Controlling Document.

In the event of an inconsistency between the terms and provisions in the Plan (without reference to the Plan Supplement) and the terms and provisions in the Disclosure Statement, the Plan Supplement, any other instrument or document created or executed pursuant to the Plan (including any Definitive Document) or any order (other than the Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing), the Plan (without reference to the Plan Supplement) shall govern and control; *provided that* notwithstanding anything herein to the contrary, in the event of

a conflict between the Confirmation Order and any of the Plan, the Plan Supplement, or the Definitive Documents, the Confirmation Order shall govern and control in all respects.

ARTICLE II. ADMINISTRATIVE EXPENSE AND PRIORITY CLAIMS.

2.1. *Administrative Expense Claims.*

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a DIP Claim or a Fee Claim) shall receive, in full and final satisfaction of such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date and (b) the first Business Day after the date that is ten (10) calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim unless otherwise required by a Final Order; *provided that* Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as Debtors in Possession, shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any course of dealing or agreements governing, instruments evidencing, or other documents relating to such transactions.

2.2. *Fee Claims.*

(a) All Entities seeking an award by the Bankruptcy Court of Fee Claims shall file and serve on counsel to the Reorganized Debtors, counsel to the Ad Hoc Committee, and the U.S. Trustee, on or before the date that is forty-five (45) days after the Effective Date, their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Commencement Date through the Effective Date. Objections to any Fee Claims must be filed and served on counsel to the Reorganized Debtors, counsel to the Ad Hoc Committee, the U.S. Trustee, and the requesting party no later than twenty-one (21) calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the Debtors or the Reorganized Debtors, as applicable, and the party requesting compensation of a Fee Claim).

(b) Allowed Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (i) on the date upon which an order relating to any such Allowed Fee Claim is entered or as soon as reasonably practicable thereafter, or (ii) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Fee Claim and the Debtors or the Reorganized Debtors, as applicable. Notwithstanding the foregoing, any Fee Claims that are authorized to be paid pursuant to any administrative orders entered by the Bankruptcy Court, including the Interim Compensation Order, may be paid at the times and in the amounts authorized pursuant to such orders.

(c) On or about the Effective Date, holders of Fee Claims shall provide a reasonable estimate of unpaid Fee Claims incurred in rendering services before the Effective Date to the Debtors or the Reorganized Debtors, as applicable, and the Debtors or Reorganized Debtors, as applicable, shall separately escrow for such estimated amounts for the benefit of the

holders of the Fee Claims until the fee applications related thereto are resolved by Final Order or agreement of the parties. If a holder of a Fee Claim does not provide an estimate, the Debtors or Reorganized Debtors, as applicable, may estimate the unpaid and unbilled reasonable and necessary fees and out-of-pocket expenses of such holder of a Fee Claim. When all such Allowed Fee Claims have been paid in full, any remaining amount in such escrow shall promptly be released from such escrow and revert to, and ownership thereof shall vest in, the Reorganized Debtors without any further action or order of the Bankruptcy Court.

(d) The Reorganized Debtors are authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval.

2.3. ***Priority Tax Claims.***

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to less favorable treatment, each holder of an Allowed Priority Tax Claim shall receive, in full and final satisfaction of such Allowed Priority Tax Claim, at the option of the Debtors or the Reorganized Debtors, as applicable: (a) Cash in an amount equal to such Allowed Priority Tax Claim on, or as soon thereafter as is reasonably practicable, the later of (i) the Effective Date, to the extent such Claim is an Allowed Priority Tax Claim on the Effective Date, (ii) the first Business Day after the date that is thirty (30) calendar days after the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, and (iii) the date such Allowed Priority Tax Claim is due and payable in the ordinary course as such obligation becomes due, or (b) equal annual Cash payments in an aggregate amount equal to the amount of such Allowed Priority Tax Claim, together with interest at the applicable rate under section 511 of the Bankruptcy Code, over a period not exceeding five (5) years from and after the Commencement Date; *provided that* the Debtors reserve the right to prepay all or a portion of any such amounts at any time under this option at their discretion. All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business or under applicable non-bankruptcy law as such obligations become due.

2.4. ***DIP Claims.***

(a) ***DIP ABL Claims.*** On the Effective Date, in full and final satisfaction of the Allowed DIP ABL Claims, each holder thereof will either (i) be repaid in full in Cash or (ii) with the consent of such holder, receive its Pro Rata share of the Exit ABL Facility. Solely to the extent that the holders of the DIP ABL Claims opt to convert such DIP ABL Claims into claims under the Exit ABL Facility, (i) all Obligations (as such term is defined in the DIP ABL Credit Agreement), other than DIP Professional Fees, shall be automatically converted to and deemed to be Obligations under, and as defined in, the Exit ABL Credit Agreement (ii) the letters of credit issued and outstanding under the DIP ABL Credit Agreement shall be converted to letters of credit deemed to be issued and outstanding under the Exit ABL Credit Agreement and (iii) all Collateral (as such term is defined in the DIP ABL Credit Agreement), other than Avoidance Actions, that secures the Obligations under the DIP ABL Credit Agreement shall be reaffirmed, ratified and shall automatically secure all Obligations under the Exit ABL Credit Agreement in the order of priority set forth in Section 5.7(c) of the Plan. As used in this paragraph “repaid in full in Cash” shall mean the indefeasible payment in full in Cash of all DIP ABL Claims, the

cancellation, backing, or cash collateralization of letters of credit in accordance with the terms of the DIP ABL Documents, and the termination of the DIP ABL Agent's and the DIP ABL Lenders' obligation to extend credit under the DIP ABL Documents.

(b) ***DIP Term Loan Claims.*** On the Effective Date, in full and final satisfaction of the Allowed DIP Term Loan Claims, all Obligations (as such term is defined in the DIP Term Loan Credit Agreement), other than DIP Professional Fees, shall be automatically converted to and deemed to be Obligations under, and as defined in, the Exit Term Loan Credit Agreement. All Collateral (as such term is defined in the DIP Term Loan Credit Agreement), other than Avoidance Actions, that secures the Obligations under the DIP Term Loan Credit Agreement shall be reaffirmed, ratified and shall automatically secure all Obligations under the Exit Term Loan Credit Agreement in the order of priority set forth in Section 5.7(c) of the Plan.

(c) ***DIP Professional Fees.*** On the Effective Date, the DIP Professional Fees shall be indefeasibly paid in full in Cash, *provided that*, at least three (3) calendar days prior to the Effective Date, any professional seeking payment of DIP Professional Fees from the Debtors shall provide the Debtors with a summary invoice of such professional's DIP Professional Fees through the date that is ten (10) calendar days prior to the Effective Date and a reasonable estimate of such Professional's DIP Professional Fees through the Effective Date, *provided further that* any DIP Professional Fees not invoiced shall not be waived and may be invoiced following the Effective Date, and such DIP Professional Fees shall be promptly satisfied by the Reorganized Debtors. A professional's submission of a summary invoice of DIP Professional Fees pursuant to this paragraph 2.4(c) shall satisfy such professional's reporting obligations with respect to such fees and such professional shall not be required to also comply with paragraph 35 of the DIP Order. Any payments of DIP Professional Fees made pursuant to this provision 2.4(c) shall not be subject to further review or objection. Any amount of estimated DIP Professional Fees that is not applied to actual DIP Professional Fees shall be returned to the Reorganized Debtors by the applicable professional as soon as reasonably practicable following the Effective Date.

2.5. *UFCW Professional Fees.*

On the Effective Date, or as soon as reasonably practicable thereafter, if the Amended UFCW Local One CBAs remain in effect, the Debtors shall pay the UFCW Professional Fees in accordance with the UFCW Local One Settlement Agreement and the UFCW Local One Benefits Fund Settlement Agreement, as applicable.

ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS.

3.1. *Classification in General.*

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided that* a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Allowed Claim or Allowed Interest has not been satisfied, released, or otherwise settled prior to the Effective Date.

3.2. *Grouping of Debtors for Convenience Only.*

The Plan groups the Debtors together solely for the purpose of describing treatment under the Plan, confirmation of the Plan, and making distributions in accordance with the Plan in respect of Claims against and Interests in the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal Entity, result in substantive consolidation of any Estates, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal Entities, or cause the transfer of any Assets. Except as otherwise provided by or permitted under the Plan, all Debtors shall continue to exist as separate legal Entities after the Effective Date.

3.3. *Summary of Classification.*

The following table designates the Classes of Claims against and Interests in each of the Debtors and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c) presumed to accept or deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Priority Tax Claims and DIP Claims, have not been classified. The classification of Claims and Interests set forth herein shall apply separately to each of the Debtors. All of the potential Classes for the Debtors are set forth herein. Certain of the Debtors may not have holders of Claims or Interests in a particular Class or Classes, and such Classes shall be treated as set forth in Section 3.5 of the Plan.

Class	Designation	Treatment	Entitled to Vote
1	Priority Non-Tax Claims	Unimpaired	No (Presumed to accept)
2	Other Secured Claims	Unimpaired	No (Presumed to accept)
3	Senior Secured Notes Claims	Impaired	Yes
4	General Unsecured Claims	Impaired	Yes
5	Intercompany Claims	Unimpaired	No (Presumed to accept)
6	Existing Holdings II Interests	Impaired	No (Deemed to reject)
7	Existing MBO Interests	Impaired	No (Deemed to reject)
8	Intercompany Interests	Unimpaired	No (Presumed to accept)
9	Subordinated Securities Claims	Impaired	No (Deemed to reject)

3.4. *Special Provision Governing Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors or the Reorganized Debtors, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

3.5. *Elimination of Vacant Classes.*

Any Class of Claims against or Interests in a Debtor that, as of the commencement of the Confirmation Hearing, does not have at least one (1) holder of a Claim or Interest that is Allowed in an amount greater than zero for voting purposes shall be considered

vacant, deemed eliminated from the Plan of such Debtor for purposes of voting to accept or reject such Debtor's Plan, and disregarded for purposes of determining whether such Debtor's Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to that Class.

ARTICLE IV. TREATMENT OF CLAIMS AND INTERESTS.

4.1. *Priority Non-Tax Claims (Class 1).*

(a) *Classification:* Class 1 consists of Priority Non-Tax Claims.

(b) *Treatment:* Except to the extent that a holder of an Allowed Priority Non-Tax Claim against any of the Debtors agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Priority Non-Tax Claim, at the option of the Debtors or the Reorganized Debtors, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the amount of such Allowed Claim, payable on the later of the Effective Date and the date that is ten (10) Business Days after the date on which such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, in each case, or as soon as reasonably practicable thereafter, (ii) such holder's Allowed Priority Non-Tax Claim shall be Reinstated, or (iii) such holder shall receive such other treatment so as to render such holder's Allowed Priority Non-Tax Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting:* Class 1 is Unimpaired, and the holders of Priority Non-Tax Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Priority Non-Tax Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to Priority Non-Tax Claims.

4.2. *Other Secured Claims (Class 2).*

(a) *Classification:* Class 2 consists of the Other Secured Claims. To the extent that the Other Secured Claims are secured by different collateral or different interests in the same collateral, such Claims shall be treated as separate subclasses of Class 2 for purposes of voting to accept or reject the Plan and receiving distributions under the Plan.

(b) *Treatment:* Except to the extent that a holder of an Allowed Other Secured Claim against any of the Debtors agrees to a less favorable treatment of such Claim, in full and final satisfaction of such Allowed Other Secured Claim, at the option of the Debtors or the Reorganized Debtors, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the amount of such Allowed Claim, payable on the later of the Effective Date and the date that is ten (10) Business Days after the date on which such Other Secured Claim becomes an Allowed Other Secured Claim, in each case, or as soon as reasonably practicable thereafter, (ii) such holder's Allowed Other Secured Claim shall be Reinstated, (iii) such holder shall receive the collateral securing its Allowed Other Secured Claim, or (iv) such holder shall receive such other treatment so as to render such holder's Allowed Other Secured Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code.

(c) *Voting:* Class 2 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the

Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Other Secured Claims.

4.3. Senior Secured Notes Claims (Class 3).

(a) *Classification:* Class 3 consists of Senior Secured Notes Claims.

(b) *Allowance:* The Senior Secured Notes Claims are Allowed pursuant to section 506(a) of the Bankruptcy Code in the aggregate principal amount of \$560,000,000, *plus* accrued but unpaid interest (including any applicable default interest), *plus* any other unpaid premiums, fees, costs, or other amounts due under the Senior Secured Notes Indenture, in each case, up to but not including the Commencement Date. The holders of the Senior Secured Notes Claims and the Senior Secured Notes Trustee shall not be required to file proofs of Claim on account of their Senior Secured Notes Claims.

(c) *Treatment:* On the Effective Date, each holder of an Allowed Senior Secured Notes Claim shall receive, in full and final satisfaction of such Allowed Claim, such holder's Pro Rata share of (i) the New Second Lien Notes and (ii) 100% of the New Equity Interests, subject to dilution by New Equity Interests issued or issuable pursuant to the Management Incentive Plan.

(d) *Voting:* Class 3 is Impaired, and the holders of Senior Secured Notes Claims in Class 3 are entitled to vote to accept or reject the Plan.

4.4. General Unsecured Claims (Class 4).

(a) *Classification:* Class 4 consists of General Unsecured Claims.

(b) *Treatment:* Each holder of an Allowed General Unsecured Claim shall receive, except to the extent that such holder agrees to a less favorable treatment of such Claim or such Claim has been paid before the Effective Date, in full and final satisfaction of such Allowed Claim, on the later of the Effective Date and the date that is ten (10) Business Days after the date on which such General Unsecured Claim becomes an Allowed General Unsecured Claim, or, in each case, as soon as reasonably practicable thereafter, such holder's Pro Rata share (calculated with reference to all Allowed General Unsecured Claims) of the GUC Litigation Trust Interests, subject to Section 5.21 of the Plan. For the avoidance of doubt, Class 4 (General Unsecured Claims) shall include the Senior Secured Notes Deficiency Claim.

(c) *Voting:* Class 4 is Impaired, and the holders of General Unsecured Claims in Class 4 are entitled to vote to accept or reject the Plan.

4.5. Intercompany Claims (Class 5).

(a) *Classification:* Class 5 consists of Intercompany Claims.

(b) *Treatment:* On the Effective Date, all Intercompany Claims shall be adjusted, Reinstated, or discharged, to the extent determined to be appropriate by the Debtors or

the Reorganized Debtors, as applicable, and the Requisite Ad Hoc Committee Members. Holders of Intercompany Claims shall not receive any GUC Litigation Trust Interests or GUC Litigation Trust Distributable Proceeds on account of such Intercompany Claims.

(c) *Voting:* Class 5 is Unimpaired, and the holders of Intercompany Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Intercompany Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Intercompany Claims.

4.6. ***Existing Holdings II Interests (Class 6).***

(a) *Classification:* Class 6 consists of Existing Holdings II Interests.

(b) *Treatment:* On the Effective Date, all Existing Holdings II Interests shall be cancelled pursuant to the Merger in accordance with Section 5.6 of the Plan, *provided that* in the event the LLC Transfer occurs, all Existing Holdings II Interests shall be deemed cancelled, and the holders of Existing Holdings II Interests shall not receive or retain any property under the Plan.

(c) *Voting:* Class 6 is Impaired, and the holders of Existing Holdings II Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Existing Holdings II Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing Holdings II Interests.

4.7. ***Existing MBO Interests (Class 7).***

(a) *Classification:* Class 7 consists of Existing MBO Interests.

(b) *Treatment:* On the Effective Date, all Existing MBO Interests shall be cancelled, and the holders of Existing MBO Interests shall not receive or retain any property under the Plan on account of such Interests.

(c) *Voting:* Class 7 is Impaired, and the holders of Existing MBO Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Existing MBO Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing MBO Interests.

4.8. ***Intercompany Interests (Class 8).***

(a) *Classification:* Class 8 consists of Intercompany Interests.

(b) *Treatment:* Except as provided in Section 5.6 of the Plan, on the Effective Date, and without the need for any further action or approval of any board of directors, managers, management, or equity holders of any Debtor or Reorganized Debtor, as applicable, all Intercompany Interests shall be unaffected by the Plan and continue in place following the

Effective Date, solely for the administrative convenience of maintaining or dissolving the existing corporate structure of the Debtors that are subsidiaries of Holdings II.

(c) *Voting:* Class 8 is Unimpaired, and the holders of Intercompany Interests are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Intercompany Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Intercompany Interests.

4.9. ***Subordinated Securities Claims (Class 9).***

(a) *Classification:* Class 9 consists of Subordinated Securities Claims.

(b) *Treatment:* The holders of Subordinated Securities Claims shall not receive or retain any property under the Plan on account of such Claims and the obligations of the Debtors and the Reorganized Debtors, as applicable, on account of such Subordinated Securities Claims shall be discharged.

(c) *Voting:* Class 9 is Impaired, and the holders of Subordinated Securities Claims are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, holders of Subordinated Securities Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Subordinated Securities Claims.

ARTICLE V. MEANS FOR IMPLEMENTATION.

5.1. ***No Substantive Consolidation.***

The Plan is being proposed as a joint plan of reorganization of the Debtors for administrative purposes only and constitutes a separate chapter 11 plan for each Debtor. The Plan is not premised on, and does not provide for, the substantive consolidation of the Debtors with respect to the Classes of Claims or Interests set forth in the Plan, or otherwise.

5.2. ***Incorporation of UFCW Local One Settlement.***

Pursuant to Section 13 of the UFCW Local One Settlement Agreement, the terms and conditions of the UFCW Local One Settlement are incorporated in the Plan as if fully set forth herein, and shall be binding on the Debtors, the Reorganized Debtors, and all other parties in interest, to the extent applicable.

5.3. ***Compromise and Settlement of Claims, Interests and Controversies.***

(a) Pursuant to sections 363 and 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a creditor or an Interest holder may have with respect to any Claim or Interest or any distribution to be made on account of an Allowed Claim or Interest. The entry of the

Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and holders of such Claims and Interests, and is fair, equitable, and reasonable.

(b) The treatment provided for hereunder to General Unsecured Claims incorporates and reflects a proposed compromise and settlement by and among the Debtors, the Ad Hoc Committee, and the Creditors' Committee (the "Global Settlement") of all disputes and potential litigation of all claims and controversies relating to the Debtors and the treatment of General Unsecured Claims, including, among other things, (i) the rights of holders of General Unsecured Claims to the GUC Litigation Trust Causes of Action, and (ii) the rights of holders of General Unsecured Claims to receive a distribution under the Plan. Pursuant to the Global Settlement, on the Effective Date, (x) the holders of the DIP ABL Claims, DIP Term Loan Claims and the Senior Secured Notes Claims shall be deemed to release all Liens and security interests on the GUC Litigation Trust Causes of Action and (y) such GUC Litigation Trust Causes of Action and the GUC Litigation Trust Payment shall be contributed to the GUC Litigation Trust for the benefit of holders of General Unsecured Claims in accordance with subsection (c) of this Section 5.3 and Section 5.21 of the Plan.

(c) Pursuant to the Global Settlement, on the Effective Date:

(i) the GUC Litigation Trust shall be established in accordance with Section 5.21 of the Plan and shall be governed and administered in accordance with the GUC Litigation Trust Agreement. The GUC Litigation Trust Agreement shall be in form and substance reasonably acceptable to the Creditors' Committee, the Debtors, and the Requisite Ad Hoc Committee Members;

(ii) the Debtors and the Estates shall transfer to the GUC Litigation Trust the GUC Litigation Trust Causes of Action, free and clear of all Liens (including all Liens granted to secure the Senior Secured Notes Claims and/or the DIP Term Loan Claims), charges, Claims, encumbrances and interests for the benefit of the holders of Allowed General Unsecured Claims;

(iii) in accordance with section 1141 of the Bankruptcy Code, all of the GUC Litigation Trust Causes of Action, as well as the rights and powers of the Debtors' Estates applicable to the GUC Litigation Trust Causes of Action, shall vest in the GUC Litigation Trust, for the benefit of the holders of Allowed General Unsecured Claims. The GUC Litigation Trust shall determine whether to enforce, settle, release, or compromise the GUC Litigation Trust Causes of Action (or decline to do any of the foregoing). The Reorganized Debtors shall not be subject to any claims or counterclaims with respect to the GUC Litigation Trust Causes of Action, or otherwise; and

(iv) the GUC Litigation Trust shall assume responsibility for, and shall be deemed to be a party in interest for purposes of, contesting, settling, compromising, reconciling, and objecting to General Unsecured Claims and for

making distributions to holders of Allowed General Unsecured Claims in accordance with the Plan and the GUC Litigation Trust Agreement.

(d) Solely for purposes of effectuating the Global Settlement and for purposes of distributions on account of General Unsecured Claims in accordance with Section 4.4 of the Plan, (i) the GUC Litigation Trust Assets shall include all GUC Litigation Trust Causes of Action irrespective of which Debtor owns such GUC Litigation Trust Causes of Action, (ii) each holder of a General Unsecured Claim shall receive its Pro Rata share of the GUC Litigation Trust Interests, irrespective of the Debtor against which such General Unsecured Claim was filed, (iii) all Guarantee Claims will not be entitled to distributions from the GUC Litigation Trust, (iv) all multiple General Unsecured Claims against any Debtors on account of joint obligations of two or more Debtors shall be treated as a single General Unsecured Claim, and (v) Intercompany Claims shall not participate in recoveries from the GUC Litigation Trust.

5.4. *Plan Implementation.*

(a) On or before the LLC Transfer Election Date, the Debtors, with the consent of the Requisite Ad Hoc Committee Members, shall elect whether or not to consummate the LLC Transfer.

(b) In the event the LLC Transfer occurs, and in accordance with the APA and the other LLC Transfer Transactions, (i) substantially all of the Assets directly owned by Holdings II shall be transferred to and vest in the Acquisition Companies and (ii) the Acquisition Companies shall assume all of the obligations of Holdings II pursuant to the Plan and all rights of Holdings II under the Plan shall vest in the Acquisition Companies. For the avoidance of doubt, none of the GUC Litigation Trust Causes of Action directly or indirectly owned by Holdings II nor the stock of Tops Markets II Corporation owned by Tops Holding LLC shall be transferred directly or indirectly to the Acquisition Companies. Additionally, the transfer of the GUC Litigation Trust Causes of Action and the GUC Litigation Trust Payment to the GUC Litigation Trust shall occur before the LLC Transfer occurs.

5.5. *Restructuring Transactions; Effectuating Documents.*

(a) Following the Confirmation Date or as soon as reasonably practicable thereafter, the Debtors or the Reorganized Debtors, as applicable, may, with the consent of the Requisite Ad Hoc Committee Members (such consent not to be unreasonably withheld), take all actions as may be necessary or appropriate to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan (including the LLC Transfer or the Merger, as applicable), including (i) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, arrangement, continuance, dissolution, sale, purchase, or liquidation containing terms that are consistent with the terms of the Plan, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan, (iii) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state or federal law, (iv) the execution and delivery of the Definitive Documents, (v) the issuance of

securities, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, (vi) such other transactions that are necessary or appropriate to implement the Plan in the most tax efficient manner, and (vii) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law, the Exit ABL Credit Agreement, the Exit Term Loan Credit Agreement, the New Second Lien Notes Indenture, or the LLC Transfer Transaction Documents (if applicable).

(b) Each officer, member of the board of directors, or manager of the Debtors is (and each officer, member of the board of directors, or manager of the Reorganized Debtors shall be) authorized and directed to issue, execute, deliver, file, or record such contracts, securities, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorization, consents, or any further action required under applicable law, regulation, order, or rule (including any action by the stockholders or directors or managers of the Debtors or the Reorganized Debtors) except for those expressly required pursuant to the Plan.

(c) All matters provided for herein involving the corporate structure of the Debtors or Reorganized Debtors, or any corporate, limited liability company, or related action required by the Debtors or Reorganized Debtors in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the stockholders, members, or directors or managers of the Debtors or Reorganized Debtors, and with like effect as though such action had been taken unanimously by the stockholders, members, directors, managers, or officers, as applicable, of the Debtors or Reorganized Debtors.

5.6. *Continued Corporate Existence; Dissolution.*

(a) Except as otherwise provided in the Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the Amended Organizational Documents. On or after the Effective Date, each Reorganized Debtor may, in its sole discretion, take such action that may be necessary or appropriate as permitted by applicable law, instruments and agreements, and such Reorganized Debtor's organizational documents, as such Reorganized Debtor may determine is reasonable and appropriate.

(b) In the event that the LLC Transfer does not occur, on the Effective Date, and without the need for any further action or approval of any board of directors, management, or shareholders of any Debtor or Reorganized Debtor, as applicable, Holdings II shall merge with and into Tops MBO Corporation (the "Merger"), pursuant to which all outstanding Existing Holdings II Interests shall be cancelled in accordance with Section 4.6 of the Plan, and all assets and liabilities of Holdings II shall become the assets or liabilities of Tops MBO Corporation. The Merger shall be treated as a "reorganization" under section 368(a) of the Tax Code for U.S. federal, and applicable state and local, income tax purposes. The timing, form, and substance of the Merger shall be satisfactory to the Debtors and the Requisite Ad Hoc Committee Members.

(c) After the Effective Date, the Reorganized Debtors shall be authorized to dissolve the Debtors or the Reorganized Debtors in accordance with applicable law. In the event the LLC Transfer occurs, Tops MBO Corporation, Reorganized Holdings II and Tops Markets II Corporation, shall be dissolved on or as promptly as practicable after the Effective Date. Any such dissolution described in this Section 5.6(c) may be effective as of the Effective Date pursuant to the Confirmation Order without any further action by any shareholder, director, manager, or member of the Debtors.

5.7. *Exit Facilities.*

(a) On the Effective Date, and solely to the extent that each holder of the Allowed DIP ABL Claims agrees to receive its Pro Rata share of the Exit ABL Facility, (i) all Obligations (as such term is defined in the DIP ABL Credit Agreement), other than DIP Professional Fees, shall be automatically converted to and deemed to be Obligations under, and as defined in, the Exit ABL Credit Agreement (ii) the letters of credit issued and outstanding under the DIP ABL Credit Agreement shall be converted to letters of credit deemed issued and outstanding under the Exit ABL Credit Agreement, and (iii) all Collateral (as such term is defined in the DIP ABL Credit Agreement), other than Avoidance Actions, that secures the Obligations under the DIP ABL Credit Agreement shall be reaffirmed, ratified and shall automatically secure all Obligations under the Exit ABL Credit Agreement in the order of priority set forth in subsection (c) of this Section 5.7. If the holders of the Allowed DIP ABL Claims do not agree to receive pro rata shares of the Exit ABL Facilities, the Liens and security interests that secure the Obligations under the DIP ABL Credit Agreement shall not be released until the payment in full in Cash of the Allowed DIP ABL Claims in accordance with section 2.4(a) of this Plan.

(b) On the Effective Date, or as soon as reasonably practicable thereafter, all Obligations (as such term is defined in the DIP Term Loan Credit Agreement), other than DIP Professional Fees, shall be automatically converted to and deemed to be Obligations under, and as defined in, the Exit Term Loan Credit Agreement, together with the additional Exit Term Loans to be provided to the Debtors. All Collateral (as such term is defined in the DIP Term Loan Credit Agreement), other than Avoidance Actions, that secures the Obligations under the DIP Term Loan Credit Agreement shall be reaffirmed, ratified and shall automatically secure all Obligations under the Exit Term Loan Credit Agreement in the order of set forth in subsection (c) of this Section 5.7. The Exit ABL Facility and the Exit Term Loans and the proceeds thereof shall be used to (i) satisfy Allowed DIP Claims, (ii) fund other distributions, costs and expenses contemplated by the Plan, (iii) fund general working capital and for general corporate purposes of the Reorganized Debtors.

(c) The Obligations under the Exit ABL Credit Agreement shall be secured by valid and perfected (i) first priority security interests in, and Liens on, the DIP ABL Priority Collateral, and (ii) third priority security interests in, and Liens on, the DIP Term Loan Priority Collateral. The Obligations under the Exit Term Loan Credit Agreement shall be secured by valid and perfected (i) first priority security interests in, and Liens on, the DIP Term Loan Priority Collateral, and (ii) second priority security interests in, and Liens on, the DIP ABL Priority Collateral. The New Second Lien Notes shall be secured by valid and perfected (i)

second priority security interests in, and Liens on, the DIP Term Loan Priority Collateral, and (ii) third priority security interests in, and Liens on, the DIP ABL Priority Collateral.

(d) On the Effective Date, the Exit ABL Credit Agreement and the Exit Term Loan Credit Agreement shall be executed and delivered. The Reorganized Debtors or Summit, as applicable, shall be authorized to execute, deliver, and enter into and perform under the Exit ABL Credit Agreement and the Exit Term Loan Credit Agreement without the need for any further corporate or limited liability company action and without further action by the holders of Claims or Interests.

5.8. *New Second Lien Notes.*

(a) On the Effective Date, Reorganized Tops Markets shall issue the New Second Lien Notes on the terms set forth in the Plan and the New Second Lien Notes Indenture. The Liens granted to secure the Obligations under the New Second Lien Notes shall be subject to customary intercreditor arrangements and shall be in the order of priority set forth in Section 5.7(c) of the Plan.

(b) On the Effective Date, the New Second Lien Notes Indenture shall be executed and delivered. The Reorganized Debtors shall be authorized to execute, deliver, and enter into and perform under the New Second Lien Notes Indenture without the need for any further corporate or limited liability company action and without further action by the holders of Claims or Interests.

5.9. *Authorization, Issuance, and Distribution of New Second Lien Notes and New Equity Interests.*

On and after the Effective Date, (i) Reorganized Tops Markets is authorized to issue or, cause to be issued, and shall issue the New Second Lien Notes, (ii) in the event that the LLC Transfer does not occur, Reorganized Holdings is authorized to issue, or cause to be issued, and shall issue the New Equity Interests, and (iii) in the event the LLC Transfer does occur, and in accordance with the APA and the LLC Transfer Transaction Documents, Summit shall issue the New Equity Interests and shall contribute the New Equity Interests indirectly to the Acquisition Companies, and, immediately thereafter, the Acquisition Companies shall transfer the New Equity Interests to Holdings II, and, in each case, Reorganized Tops Markets, Holdings II or Reorganized Holdings, as applicable, shall direct DTC to distribute the New Second Lien Notes or New Equity Interests, as applicable, to the holders of the Senior Secured Notes Claims in accordance with the terms of Section 4.3 of the Plan and pursuant to the Management Incentive Plan, without the need for any further corporate, limited liability company, or shareholder action. All of the New Equity Interests distributable under the Plan shall be duly authorized, validly issued, and fully paid and non-assessable. On the Effective Date, each Person that receives any portion of the New Equity Interests shall be deemed to have executed, without any further action by the Debtors or any other party, the Shareholders Agreement.

5.10. *Section 1145 Exemption.*

(a) The offer, issuance, and distribution of the New Second Lien Notes and the New Equity Interests, as applicable, hereunder to holders of Senior Secured Notes Claims

under Section 4.3 of the Plan shall be exempt, pursuant to section 1145 of the Bankruptcy Code, without further act or action by any Entity, from registration under (i) the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and (ii) any state or local law requiring registration for the offer, issuance, or distribution of Securities.

(b) Under section 1145 of the Bankruptcy Code, any securities issued under the Plan that are exempt from such registration pursuant to section 1145(a) of the Bankruptcy Code will be freely tradable by the recipients thereof, subject to (i) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act of 1933, (ii) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments, (iii) the restrictions, if any, on the transferability of such securities and instruments, including any restrictions on the transferability under the terms of the Amended Organizational Documents, (iv) any applicable procedures of DTC, and (v) applicable regulatory approval.

5.11. *Cancellation of Existing Securities and Agreements.*

(a) Except for the purpose of evidencing a right to a distribution under the Plan and except as otherwise set forth in the Plan, including with respect to executory contracts or unexpired leases that shall be assumed by the Debtors, on the Effective Date, all agreements, instruments, and other documents evidencing any Allowed DIP ABL Claims, Allowed DIP Term Loan Claims, Allowed Senior Secured Notes Claims, Allowed OpCo Unsecured Notes Claims and Allowed HoldCo Unsecured Notes Claims, or any Interest (other than Intercompany Interests that are not modified by the Plan) and any rights of any holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect and the obligations of the Debtors thereunder shall be deemed fully satisfied, released, and discharged.

(b) Notwithstanding such cancellation and discharge and the releases contained in Article X of the Plan, the DIP ABL Credit Agreement, the DIP Term Loan Credit Agreement, the Senior Secured Notes Indenture, the OpCo Unsecured Notes Indenture, and the HoldCo Unsecured Notes Indenture shall continue in effect solely to the extent necessary to (i) allow the holders of Allowed DIP ABL Claims, Allowed DIP Term Loan Claims, Allowed Senior Secured Notes Claims, Allowed OpCo Unsecured Notes Claims and Allowed HoldCo Unsecured Notes Claims to receive distributions under the Plan, (ii) allow the Debtors, the Reorganized Debtors, the Senior Secured Notes Trustee, the OpCo Unsecured Notes Trustee, the HoldCo Unsecured Notes Trustee and the Disbursing Agent to make post-Effective Date Distributions or take such other action pursuant to the Plan on account of the Allowed ABL Claims, Allowed DIP Term Loan Claims, Allowed Senior Secured Notes Claims, Allowed OpCo Unsecured Notes Claims, and Allowed HoldCo Unsecured Notes Claims, as applicable, and to otherwise exercise their rights and discharge their obligations relating to the interests of the holders of such Claims in accordance with the Plan, (iii) allow holders of Claims to retain their respective rights and obligations vis-à-vis other holders of Claims pursuant to any applicable loan documents, (iv) allow the DIP ABL Agent, the DIP Term Loan Agent, the Senior Secured Notes Trustee, the OpCo Unsecured Notes Trustee and/or the HoldCo Unsecured Notes Trustee to enforce any obligations owed to them under the Plan (including seeking compensation and reimbursement for any reasonable and documented fees and expenses pursuant to their respective Charging Liens as provided in the Indentures), (v) permit the DIP ABL Agent, the DIP Term

Loan Agent, the Senior Secured Notes Trustee, the OpCo Unsecured Notes Trustee and/or the HoldCo Unsecured Notes Trustee to perform any function necessary to effectuate the foregoing, and (vi) permit the DIP ABL Agent, the DIP Term Loan Agent, the Senior Secured Notes Trustee, the OpCo Unsecured Notes Trustee and/or the HoldCo Unsecured Notes Trustee to appear in the Chapter 11 Cases or in any proceeding in the Bankruptcy Court or any other court relating to the DIP ABL Documents, the DIP Term Loan Documents, the Senior Secured Notes Indenture, the OpCo Unsecured Notes Indenture, or the HoldCo Unsecured Notes Indenture, as applicable, provided that nothing in this Section 5.11 shall affect the discharge of Claims pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any liability or expense to the Reorganized Debtors. For the avoidance of doubt, each of the Indenture Trustees shall be entitled to assert its respective Charging Liens arising under and in accordance with the applicable Indenture and any ancillary document, instrument, or agreement to obtain payment of its Indenture Trustee Fees and Expenses.

(c) Notwithstanding the foregoing, any provision in any document, instrument, lease, or other agreement that causes or effectuates, or purports to cause or effectuate, a default, termination, waiver, or other forfeiture of, or by, the Debtors of their interests, as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.11 shall be deemed null and void and shall be of no force and effect. Nothing contained herein shall be deemed to cancel, terminate, release, or discharge the obligation of the Debtors or any of their counterparties under any executory contract or unexpired lease to the extent such executory contract or unexpired lease has been assumed by the Debtors pursuant to a Final Order of the Bankruptcy Court or hereunder.

(d) Except for the foregoing, on and after the Effective Date, all duties and responsibilities of the Indenture Trustees shall be fully discharged (i) unless otherwise specifically set forth in or provided for under the Plan, the Plan Supplement, or the Confirmation Order, and (ii) except with respect to such other rights of the Indenture Trustees that, pursuant to the applicable Indentures, survive the termination of such Indentures. Subsequent to the performance by each Indenture Trustee of its obligations pursuant to the Plan and Confirmation Order, such Indenture Trustee and its agents shall be relieved of all further duties and responsibilities related to the applicable Indenture. The Reorganized Debtors shall reimburse the Senior Secured Notes Trustee for any reasonable and documented fees and expenses (including the reasonable and documented fees and expenses of its counsel and agents) incurred after the Effective Date solely in connection with the implementation of the Plan, including but not limited to, making distributions pursuant to and in accordance with the Plan.

5.12. *Retention of Causes of Action.*

Except as provided in Section 5.21 or otherwise provided in the Plan or the Confirmation Order, on the Effective Date, each Debtor or Reorganized Debtor shall retain all of its Causes of Action. Each Debtor or Reorganized Debtor may enforce, prosecute, settle, release, or compromise (or decline to do any of the foregoing) all such Causes of Action.

5.13. ***Officers and Boards of Directors.***

(a) On the Effective Date, the initial directors of the New Board shall consist of the Chief Executive Officer, one (1) Independent Director, and additional individuals designated by the Ad Hoc Committee. The members of the boards of directors or managers of the Reorganized Debtors (other than Reorganized Holdings or Summit, as applicable), to the extent deemed necessary by the New Board, shall be selected by the New Board. The composition of the New Board shall be disclosed prior to the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Except as otherwise provided in the Plan Supplement, the officers of the respective Reorganized Debtors immediately before the Effective Date, as applicable, shall serve as the initial officers of each of the respective Reorganized Debtors on and after the Effective Date and in accordance with Sections 5.15 and 5.16 of the Plan, the Key Employee Agreements, and applicable non-bankruptcy law.

(c) Except to the extent that a member of the board of directors or managers, as applicable, of a Debtor continues to serve as a director or manager of such Debtor on and after the Effective Date, the members of the board of directors or managers of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Reorganized Debtors on or after the Effective Date and each such director or manager will be deemed to have resigned or shall otherwise cease to be a director or manager of the applicable Debtor on the Effective Date.

(d) Commencing on the Effective Date, each of the directors and managers of each of the Reorganized Debtors shall be elected and serve pursuant to the terms of the applicable organizational documents of such Reorganized Debtor and may be replaced or removed in accordance with such organizational documents.

5.14. ***Cancellation of Liens.***

Except as otherwise specifically provided herein, including pursuant to Section 5.7 of the Plan, upon the payment in full in Cash of an Other Secured Claim, any Lien securing an Other Secured Claim that is paid in full, in Cash, shall be deemed released, and the holder of such Other Secured Claim shall be authorized and directed to release any collateral or other property of the Debtors (including any Cash collateral) held by such holder and to take such actions as may be requested by the Reorganized Debtors, to evidence the release of such Lien, including the execution, delivery and filing or recording of such releases as may be requested by the Reorganized Debtors.

5.15. ***Employee Matters.***

(a) Subject to Section 5.16 of the Plan and the KERP Order, on the Effective Date, the Reorganized Debtors shall assume the Current Employee Arrangements, including the Key Employee Agreements, *provided that* to the extent a Current Employee Arrangement or Benefit Plan provides solely for an award or potential award of Existing Holdings II Interests or Existing MBO Interests, such Existing Holdings II Interests or Existing MBO Interests shall be treated in accordance with Sections 4.6 and 4.7, respectively, *provided further that* Insiders shall

not receive any payments on account of amounts owed under the General Management Incentive Plan that have accrued between the Commencement Date and the Effective Date. Notwithstanding anything to the contrary in the Current Employee Arrangements or the Key Employee Agreements, the consummation of the Plan shall not be treated as or constitute a change in control or change of control or other similar transaction under the Current Employee Arrangements or the Key Employee Agreements.

(b) For the avoidance of doubt, the Employment Arrangements for the Debtors' union employees shall be governed by the terms of the applicable Collective Bargaining Agreements, in accordance with Section 8.5 of the Plan.

(c) On the Effective Date, the Former Employee Arrangements shall be deemed rejected in accordance with Section 8.1 of the Plan, *provided that* the Reorganized Debtors shall continue to honor all retiree benefits in accordance with section 1129(a)(13) of the Bankruptcy Code.

5.16. ***Management Incentive Plan.***

On the Effective Date, the New Board shall adopt the Management Incentive Plan.

5.17. ***Nonconsensual Confirmation.***

The Debtors intend to undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code as to any Classes that reject or are deemed to reject the Plan.

5.18. ***Closing of Chapter 11 Cases.***

On the Effective Date, all of the Chapter 11 Cases shall be closed other than the lead Chapter 11 Case of *In re Tops Holding II Corporation* (Case No. 18-22279 (RDD)), and, except as otherwise provided in the Plan, Debtor Tops Holding II Corporation, the Reorganized Debtors, and the GUC Litigation Trust, as applicable, shall be entitled to prosecute claims and defenses, make distributions, and attend to other wind-down affairs on behalf of each of the other former Debtors as if such Debtors' estates continued to exist, solely for these purposes. From and after the Effective Date, Debtor Tops Holding II Corporation shall be entitled to change its name to Grocery Liquidation Corporation or any similar name, and the caption of its Chapter 11 Case shall be adjusted accordingly upon the filing of notice of such corporate name change on the Bankruptcy Court's docket. The Reorganized Debtors shall, promptly after the full administration of the Chapter 11 Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Case of Tops Holding II Corporation.

5.19. ***Notice of Effective Date.***

As soon as practicable, but not later than three (3) Business Days following the Effective Date, the Debtors shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

5.20. ***Separability.***

Notwithstanding the combination of the separate plans of reorganization for the Debtors set forth in the Plan for purposes of economy and efficiency, the Plan constitutes a separate chapter 11 plan for each Debtor. Accordingly, if the Bankruptcy Court does not confirm the Plan with respect to one or more Debtors, it may still, subject to the consent of the applicable Debtors and the Requisite Ad Hoc Committee Members, confirm the Plan with respect to any other Debtor that satisfies the confirmation requirements of section 1129 of the Bankruptcy Code.

5.21. ***GUC Litigation Trust.***

(a) ***Creation and Governance of the GUC Litigation Trust.*** On the Effective Date, the Debtors shall transfer the GUC Litigation Trust Payment to the GUC Litigation Trust and the Debtors and the GUC Litigation Trustee shall execute the GUC Litigation Trust Agreement and shall take all steps necessary to establish the GUC Litigation Trust in accordance with the Plan and the beneficial interests therein, which shall be for the benefit of the GUC Litigation Trust Beneficiaries. In the event of any conflict between the terms of the Plan and the terms of the GUC Litigation Trust Agreement, the terms of the Plan shall govern. Additionally, on the Effective Date, the Debtors shall transfer and shall be deemed to transfer to the GUC Litigation Trust all of their rights, title and interest in and to all of the GUC Litigation Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the GUC Litigation Trust Assets shall automatically vest in the GUC Litigation Trust free and clear of all Claims and Liens, subject only to (a) GUC Litigation Trust Interests, and (b) the expenses of the GUC Litigation Trust as provided for in the GUC Litigation Trust Agreement, and such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax. The GUC Litigation Trustee shall be the exclusive trustee of the assets of the GUC Litigation Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representatives of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, solely for purposes of carrying out the GUC Litigation Trustee's duties under the GUC Litigation Trust Agreement. The GUC Litigation Trust shall be governed by the GUC Litigation Trust Agreement and administered by the GUC Litigation Trustee.

The powers, rights and responsibilities of the GUC Litigation Trustee shall be specified in the GUC Litigation Trust Agreement and shall include the authority and responsibility to, among other things, take the actions set forth in this Section 5.21. The GUC Litigation Trustee shall hold and distribute the GUC Litigation Trust Assets in accordance with the provisions of the Plan and the GUC Litigation Trust Agreement. Other rights and duties of the GUC Litigation Trustee and the GUC Litigation Trust Beneficiaries shall be as set forth in the GUC Litigation Trust Agreement. After the Effective Date, the Debtors and the Reorganized Debtors shall have no interest in the GUC Litigation Trust Assets except as set forth in the GUC Litigation Trust Agreement.

(b) ***Purpose of the GUC Litigation Trust.*** The GUC Litigation Trust shall be established for the purpose of liquidating the GUC Litigation Trust Assets, distributing the GUC Litigation Trust Distributable Proceeds, if any, reconciling General Unsecured Claims as provided for in the Plan and, if, as and to the extent determined by the GUC Litigation Trustee

pursuant to the GUC Litigation Trust Agreement, distributing the GUC Litigation Trust Payment to the GUC Litigation Trust Beneficiaries in accordance with Treasury Regulation section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business.

(c) ***Litigation Trustee and Litigation Trust Agreement.*** The GUC Litigation Trust Agreement generally will provide for, among other things: (i) the payment of the GUC Litigation Trust Expenses; (ii) the payment of other reasonable expenses of the GUC Litigation Trust, including the cost of pursuing the GUC Litigation Trust Causes of Action; (iii) the retention of counsel, accountants, financial advisors or other professionals and the payment of their reasonable compensation; (iv) the investment of Cash by the GUC Litigation Trustee within certain limitations, including those specified in the Plan; (v) the orderly liquidation of the GUC Litigation Trust Assets; and (vi) litigation of any GUC Litigation Trust Causes of Action, which may include the prosecution, settlement, abandonment or dismissal of any such Litigation Trust Causes of Action.

Except as otherwise ordered by the Bankruptcy Court, the GUC Litigation Trust Expenses shall be paid solely from the GUC Litigation Trust Assets in accordance with the Plan and the GUC Litigation Trust Agreement.

The GUC Litigation Trustee, on behalf of the GUC Litigation Trust, may employ, without further order of the Bankruptcy Court, professionals (including Professionals previously retained by the Creditors' Committee) to assist in carrying out its duties hereunder and may compensate and reimburse the reasonable expenses of these professionals without further order of the Bankruptcy Court from the GUC Litigation Trust Assets in accordance with the Plan and the GUC Litigation Trust Agreement. The GUC Litigation Trust Agreement may include reasonable and customary provisions that allow for indemnification by the GUC Litigation Trust. Any such indemnification shall be the sole responsibility of the GUC Litigation Trust and payable solely from the GUC Litigation Trust Assets.

In furtherance of and consistent with the purpose of the GUC Litigation Trust and the Plan, the GUC Litigation Trustee, for the benefit of the GUC Litigation Trust, shall (a) hold the GUC Litigation Trust Assets for the benefit of the Litigation Trust Beneficiaries, (b) make distributions of GUC Litigation Trust Distributable Proceeds as provided herein and in the GUC Litigation Trust Agreement and (c) have the power and authority to prosecute and resolve any GUC Litigation Trust Causes of Action. The GUC Litigation Trustee shall be responsible for all decisions and duties with respect to the GUC Litigation Trust and the GUC Litigation Trust Assets, except as otherwise provided in the GUC Litigation Trust Agreement. In all circumstances, the GUC Litigation Trustee shall act in the best interests of the GUC Litigation Trust Beneficiaries.

(d) ***Compensation and Duties of the GUC Litigation Trustee.*** The salient terms of the GUC Litigation Trustee's employment, including the GUC Litigation Trustee's duties and compensation (which compensation shall be negotiated by the GUC Litigation Trustee and the Creditors' Committee), shall be set forth in the GUC Litigation Trust Agreement. The GUC Litigation Trustee shall be entitled to reasonable compensation in an amount consistent with that of similar functionaries in similar types of bankruptcy cases.

(e) ***Cooperation of Reorganized Debtors.*** Subject to subsection (f) of this Section 5.21, the Debtors, Reorganized Debtors, or Acquisition Companies, as applicable, upon reasonable notice, shall provide reasonable cooperation with the GUC Litigation Trustee in the administration of the GUC Litigation Trust, including providing reasonable access to pertinent documents, including books and records, to the extent the Debtors, Reorganized Debtors, or Acquisition Companies have such information and/or documents, to the Litigation Trustee sufficient to enable the GUC Litigation Trustee to perform its duties hereunder. The Reorganized Debtors or Acquisition Companies, as applicable, shall reasonably cooperate with the GUC Litigation Trustee in the administration of the GUC Litigation Trust, including, providing reasonable access to documents and current officers and directors with respect to (i) the prosecution of the GUC Litigation Trust Causes of Action, and (ii) contesting, settling, compromising, reconciling, and objecting to General Unsecured Claims, in each case, the GUC Litigation Trust agrees to reimburse reasonable out-of-pocket expenses for preservation of documents, copying or similar expenses. The collection, review, and preservation of documents for any investigation or litigation by the GUC Litigation Trust shall be at the expense of the GUC Litigation Trust.

(f) ***Preservation of Privilege.*** The Debtors and the GUC Litigation Trust shall enter into a common interest agreement whereby the Debtors will be able to share documents, information or communications (whether written or oral) relating to the GUC Litigation Trust Assets and contesting, settling, compromising, reconciling, and objecting to General Unsecured Claims that are otherwise covered by attorney-client privilege, work product privilege, or other privileges or immunity. The GUC Litigation Trust shall seek to preserve and protect all applicable privileges attaching to any such documents, information, or communications. The GUC Litigation Trustee's receipt of such documents, information or communications shall not constitute a waiver of any privilege. All privileges shall remain in the control of the Debtors or the Reorganized Debtors, as applicable, and the Debtors or the Reorganized Debtors retain the right to waive their own privileges.

(g) ***United States Federal Income Tax Treatment of the GUC Litigation Trust.*** The GUC Litigation Trust shall be structured to qualify as a "liquidating trust" within the meaning of Treas. Reg. § 301.7701-4(d) and in compliance with Rev. Proc. 94-45, 1994-2 C.B. 684, and, thus, as a "grantor trust" within the meaning of Sections 671 through 679 of the Tax Code to the holders of General Unsecured Claims, consistent with the terms of the Plan. The sole purpose of the GUC Litigation Trust shall be the liquidation and distribution of the GUC Litigation Trust Assets in accordance with Treas. Reg. § 301.7701-4(d), including the resolution of General Unsecured Claims in accordance with this Plan, with no objective to continue or engage in the conduct of a trade or business. All parties (including the Debtors and the Estates, holders of General Unsecured Claims and GUC Litigation Trustee) shall report consistently with such treatment. All parties shall report consistently with the valuation of the GUC Litigation Trust Assets transferred to the GUC Litigation Trust as determined by the GUC Litigation Trustee (or its designee). The GUC Litigation Trustee shall be responsible for filing returns for the GUC Litigation Trust as a grantor trust pursuant to Treas. Reg. § 1.671-4(a). The GUC Litigation Trustee shall annually send to each holder of an interest in the GUC Litigation Trust a separate statement regarding the receipts and expenditures of the trust as relevant for U.S. federal income tax purposes. Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the receipt by the GUC Litigation

Trustee of a private letter ruling if the GUC Litigation Trustee so requests one, or the receipt of an adverse determination by the Internal Revenue Service upon audit if not contested by the GUC Litigation Trustee), the GUC Litigation Trustee will timely elect to (x) treat any portion of the GUC Litigation Trust allocable to Disputed Claims as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9 (and make any appropriate elections) and (y) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All parties (including the Debtors and the Estates, holders of General Unsecured Claims and GUC Litigation Trustee) shall report for United States federal, state, and local income tax purposes consistently with the foregoing.

(h) ***Tax Reporting.*** The GUC Litigation Trustee shall file tax returns for the GUC Litigation Trust treating the GUC Litigation Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a).

Except to the extent definitive guidance from the Internal Revenue Service or a court of competent jurisdiction (including the issuance of applicable Treasury Regulations, the receipt by the GUC Litigation Trustee of a private letter ruling if the GUC Litigation Trustee so requests one) indicates that such valuation is not necessary to maintain the treatment of the GUC Litigation Trust as a liquidating trust for purposes of the Tax Code and applicable Treasury Regulations, as soon as reasonably practicable after the GUC Litigation Trust Assets are transferred to the GUC Litigation Trust, the GUC Litigation Trustee shall make a good faith valuation of the GUC Litigation Trust Assets. Such valuation shall be made available from time to time to all parties to the GUC Litigation Trust Agreement, to the extent relevant to such parties for tax purposes, and shall be used consistently by such parties for all United States federal income tax purposes.

Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the GUC Litigation Trustee of a private letter ruling if the GUC Litigation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the GUC Litigation Trustee), allocations of GUC Litigation Trust taxable income or loss shall be allocated by reference to the manner in which any economic gain or loss would be borne immediately after a hypothetical liquidating distribution of the remaining GUC Litigation Trust Assets. The tax book value of the GUC Litigation Trust Assets for purpose of this paragraph shall equal their fair market value on the date the GUC Litigation Trust Assets are transferred to the GUC Litigation Trust, adjusted in accordance with tax accounting principles prescribed by the Tax Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

The GUC Litigation Trustee shall be responsible for payment, out of the GUC Litigation Trust Assets, of any taxes imposed on the GUC Litigation Trust or its assets (including in respect of any distributions or deemed distributions in connection with the allowance of Disputed Claims). In the event of insufficient cash allocable to a particular Disputed Claim, that the GUC Litigation Trustee shall be authorized to sell all or part of the underlying assets reserved in respect of such Claim to pay the associated tax liability.

The GUC Litigation Trustee shall distribute such notices to the GUC Litigation Trust Beneficiaries as the GUC Litigation Trustee determines are necessary or desirable.

(i) ***GUC Litigation Trust Assets.*** The GUC Litigation Trustee shall have the exclusive right on behalf of the GUC Litigation Trust, to institute, file, prosecute, enforce, settle, compromise, release, abandon, or withdraw any and all GUC Litigation Trust Causes of Action without any further order of the Bankruptcy Court, except as otherwise provided herein or in the GUC Litigation Trust Agreement. From and after the Effective Date, the GUC Litigation Trustee, in accordance with section 1123(b)(3) of the Bankruptcy Code, and on behalf of the GUC Litigation Trust, shall serve as a representative of the Estates, solely for purposes of carrying out the GUC Litigation Trustee's duties under the GUC Litigation Trust Agreement. In connection with the investigation, prosecution and/or compromise of the GUC Litigation Trust Causes of Action, the GUC Litigation Trustee may expend such portion of the GUC Litigation Trust Assets as the GUC Litigation Trustee deems necessary.

(j) ***Litigation Trust Fees and Expenses.*** From and after the Effective Date, the GUC Litigation Trustee, on behalf of the GUC Litigation Trust, shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the GUC Litigation Trust and any professionals retained by the GUC Litigation Trust from the GUC Litigation Trust Assets, except as otherwise provided in the GUC Litigation Trust Agreement.

(k) ***Distribution of Unrestricted Cash.*** The GUC Litigation Trustee shall distribute to the GUC Litigation Trust Beneficiaries on account of their interests in the GUC Litigation Trust, at least annually, its net income plus all net proceeds from the sale of assets, except that the GUC Litigation Trust may retain an amount of net proceeds or net income reasonably necessary to maintain the value of the GUC Litigation Trust Assets or to meet claims and contingent liabilities.

(l) ***Litigation Trust Funding.*** In the event the GUC Litigation Trust requires litigation funding (comprised of reasonable legal and other reasonable professional fees, costs and expenses) in excess of the GUC Litigation Trust Payment, the GUC Litigation Trustee may obtain litigation financing from third parties on terms acceptable to the GUC Litigation Trustee in its sole discretion.

(m) ***Distributions to Litigation Trust Beneficiaries.*** The GUC Litigation Trustee may, in its discretion, distribute any portion of the GUC Litigation Trust Payment to the holders of GUC Litigation Trust Interests at any time and/or use such funds for any purpose permitted under the Plan, the GUC Trust Agreement and applicable law.

(n) **Cash Investments.** The GUC Litigation Trustee may invest Cash (including any earnings thereon or proceeds therefrom); *provided, however*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

(o) **Single Satisfaction of Allowed General Unsecured Claims.** Notwithstanding anything to the contrary herein, in no event shall holders of Allowed General Unsecured Claims recover more than the full amount of their Allowed General Unsecured Claims from the GUC Litigation Trust Distributable Proceeds, if any, and the GUC Litigation Trust Payment.

(p) **Dissolution of the GUC Litigation Trust.** The GUC Litigation Trustee and the GUC Litigation Trust shall be discharged or dissolved, as the case may be, at such time as (a) the GUC Litigation Trustee determines that the pursuit of additional GUC Litigation Trust Causes of Action is not likely to yield sufficient additional proceeds to justify further pursuit of such claims and (b) all distributions of GUC Litigation Trust Distributable Proceeds required to be made by the GUC Litigation Trustee under the Plan have been made, but in no event shall the GUC Litigation Trust be dissolved later than five years from the Effective Date unless the Bankruptcy Court, upon motion made within the six-month period before such fifth anniversary (and, in the event of further extension, at least six months before the end of the preceding extension), determines that a fixed period extension (not to exceed three years, together with any prior extensions, without a favorable letter ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the GUC Litigation Trust as a liquidating trust for federal income tax purposes) is necessary to facilitate or complete the recovery on, and liquidation of, the GUC Litigation Trust Assets. Upon dissolution of the GUC Litigation Trust, any remaining GUC Litigation Trust Assets shall be distributed to all GUC Litigation Trust Beneficiaries in accordance with the Plan and the GUC Litigation Trust Agreement as appropriate.

ARTICLE VI. DISTRIBUTIONS.

6.1. Distributions Generally.

Except as otherwise provided in the Plan and in the GUC Litigation Trust Agreement, the Disbursing Agent shall make all distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan. Notwithstanding anything herein to the contrary, distributions to the GUC Litigation Trust Beneficiaries shall be made by the GUC Litigation Trustee as and when provided for in the GUC Litigation Trust Agreement.

6.2. Distribution Record Date.

As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtors or their respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtors, the Reorganized Debtors, or Summit shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after

the Distribution Record Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtors nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease as of the close of business on the Distribution Record Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount. For the avoidance of doubt, the Distribution Record Date shall not apply to the Senior Secured Notes, the holders of which shall receive a distribution in accordance with Article IV of the Plan and the customary procedures of DTC on or as soon as practicable after the Effective Date.

6.3. *Date of Distributions.*

Except as otherwise provided in the Plan and in the GUC Litigation Trust Agreement, any distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan, including the treatment provisions of Article IV of the Plan, or as soon as practicable thereafter; *provided that* the Reorganized Debtors may implement periodic distribution dates to the extent they reasonably determine them to be appropriate.

6.4. *Disbursing Agent.*

A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties, and all reasonable fees and expenses incurred by such Disbursing Agents directly related to distributions hereunder shall be reimbursed by the Reorganized Debtors. The Reorganized Debtors shall use commercially reasonable efforts to provide the Disbursing Agent (if other than the Reorganized Debtors) with the amounts of Claims and the identities and addresses of holders of Claims and Interests as of the Distribution Record Date, in each case, as set forth in the Debtors' or Reorganized Debtors' books and records. The Reorganized Debtors shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtors) to comply with the reporting and withholding requirements outlined in Section 6.19 of the Plan.

6.5. *Rights and Powers of Disbursing Agent.*

(a) From and after the Effective Date, the Disbursing Agent, solely in its capacity as Disbursing Agent, shall be exculpated by all Entities, including holders of Claims against and Interests in the Debtors and other parties in interest, from any and all claims, Causes of Action, and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Disbursing Agent by the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent. No holder of a Claim or Interest or other party in interest shall have or pursue any claim or Cause of Action against the Disbursing Agent, solely in its capacity as Disbursing Agent, for making payments in accordance with the Plan or for implementing provisions of the Plan, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent.

(b) A Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all distributions contemplated hereby, (iii) employ professionals to represent it with respect to its responsibilities, and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions of the Plan.

6.6. *Expenses of Disbursing Agent.*

To the extent the Disbursing Agent is an Entity other than a Debtor or Reorganized Debtor, except as otherwise ordered by the Bankruptcy Court and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and expense reimbursement Claims (including for reasonable attorneys' and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors in the ordinary course of business.

6.7. *No Postpetition Interest on Claims.*

Except as otherwise provided in the Plan, the Confirmation Order, or another order of the Bankruptcy Court or required by the Bankruptcy Code, interest shall not accrue or be paid on any Claims on or after the Commencement Date, *provided that*, other than with respect to DIP Claims or other Secured Claims, if interest is payable pursuant to the preceding sentence, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment. For the avoidance of doubt, the DIP Claims may accrue and be paid postpetition interest in accordance with the terms set forth in the agreements governing the DIP Claims.

6.8. *Delivery of Distributions.*

(a) Subject to Bankruptcy Rule 9010, all distributions to any holder of an Allowed Claim shall be made to a Disbursing Agent, who shall transmit such distribution to the applicable holders of Allowed Claims. In the event that any distribution to any holder is returned as undeliverable, no further distributions shall be made to such holder unless and until such Disbursing Agent is notified in writing of such holder's then-current address, at which time all currently-due, missed distributions shall be made to such holder as soon as reasonably practicable thereafter without interest. Nothing herein shall require the Disbursing Agent to attempt to locate holders of undeliverable distributions and, if located, assist such holders in complying with Section 6.19 of the Plan.

(b) Distributions of the New Second Lien Notes or the New Equity Interests to be held through DTC shall be made through the facilities of DTC in accordance with DTC's customary practices. All New Second Lien Notes or New Equity Interests to be distributed pursuant to the Plan shall be issued in the names of such holders, their nominees of record, or their permitted designees as of the Distribution Record Date in accordance with DTC's book-entry procedures, to the extent applicable; *provided that* such New Second Lien Notes or New

Equity Interests are permitted to be held through DTC's book-entry system; *provided, further, that* to the extent that the New Second Lien Notes or New Equity Interests are not eligible for distribution in accordance with DTC's customary practices, Reorganized Tops Markets, Holdings II or Reorganized Holdings, as applicable, will take such reasonable actions as may be required to cause distributions of the New Second Lien Notes or the New Equity Interests under the Plan. No distributions will be made other than through DTC if the New Equity Interests are permitted to be held through DTC's book entry system. Any distribution that otherwise would be made to any holder eligible to receive a distribution of a security available solely through DTC who does not own or hold an account eligible to receive a distribution through DTC on a relevant distribution date shall be forfeited. The Debtors or the Reorganized Debtors, as applicable, shall seek the cooperation of DTC in an attempt to ensure that any distribution on account of an Allowed Senior Secured Notes Claim that is held in the name of, or by a nominee of, DTC, shall be made through the facilities of DTC on the Effective Date or as soon as practicable thereafter.

6.9. *Distributions after Effective Date.*

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

6.10. *Unclaimed Property.*

Undeliverable distributions or unclaimed distributions shall remain in the possession of the Debtors until such time as a distribution becomes deliverable or holder accepts distribution, or such distribution reverts back to the Debtors or Reorganized Debtors, as applicable, and shall not be supplemented with any interest, dividends, or other accruals of any kind. Such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one hundred and eighty (180) days from the date of distribution. After such date all unclaimed property or interest in property shall revert to the Reorganized Debtors or the Acquisition Companies, as applicable, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred.

6.11. *Time Bar to Cash Payments.*

Checks issued by the Disbursing Agent in respect of Allowed Claims shall be null and void if not negotiated within one hundred and eighty (180) days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtors or, in the event the LLC Transfer occurs, anything that would revert to Holdings II shall revert to the Acquisition Companies as the acquirers of substantially of the Assets of Holdings II, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued.

6.12. ***Manner of Payment under Plan.***

Except as otherwise specifically provided in the Plan, at the option of the Debtors or the Reorganized Debtors, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

6.13. ***Satisfaction of Claims.***

Except as otherwise specifically provided in the Plan, any distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

6.14. ***Fractional Stock and Notes.***

No fractional shares or equity interests of New Equity Interests shall be distributed. If any distributions of New Equity Interests pursuant to the Plan would result in the issuance of a fractional share or equity interest of New Equity Interests, then the number of shares or equity interests of New Equity Interests to be issued in respect of such distribution will be calculated to one decimal place and rounded up or down to the closest whole share or equity interest (with a half share or equity interest or greater rounded up and less than a half share or equity interest rounded down). The total number of shares or equity interests of New Equity Interests, as applicable, to be distributed in connection with the Plan shall be adjusted as necessary to account for the rounding provided for in this Section 6.14. No consideration shall be provided in lieu of fractional shares or equity interests that are rounded down. Neither the Reorganized Debtors nor the Disbursing Agent shall have any obligation to make a distribution that is less than (1) share or equity interest of New Equity Interests. Any New Equity Interest that is not distributed in accordance with this Section 6.14 shall be returned to, and ownership thereof shall vest in, Reorganized Holdings or the Acquisition Companies, as applicable. The New Second Lien Notes shall be issued in denomination of \$1,000 and integral multiples of \$1.00 and any other amounts shall be rounded down.

6.15. ***Minimum Cash Distributions.***

The Disbursing Agent shall not be required to make any distribution of Cash less than One Hundred Dollars (\$100) to any holder of an Allowed Claim; *provided* that if any distribution is not made pursuant to this Section 6.15, such distribution shall be added to any subsequent distribution to be made on behalf of the holder's Allowed Claim.

6.16. ***Setoffs and Recoupments.***

The Debtors and the Reorganized Debtors, as applicable, may, but shall not be required to, set off or recoup against any Claim, and any distribution to be made on account of such Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that the Debtors or the Reorganized Debtors may have against the holder of such Claim pursuant to the Bankruptcy Code or applicable nonbankruptcy law; *provided* that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by a Debtor or a

Reorganized Debtor or its successor of any claims, rights, or Causes of Action that a Debtor or Reorganized Debtor or its successor or assign may possess against the holder of such Claim.

6.17. *Allocation of Distributions between Principal and Interest.*

Except as otherwise required by law (as reasonably determined by the Debtors or the Reorganized Debtors), distributions with respect to Allowed Senior Secured Notes Claim and Allowed General Unsecured Claims shall be allocated first to the principal portion of such Allowed Claim (as determined for United States federal income tax purposes) and, thereafter, to the remaining portion of such Allowed Claim, if any.

6.18. *No Distribution in Excess of Amount of Allowed Claim.*

Notwithstanding anything in the Plan to the contrary, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, distributions in excess of the Allowed amount of such Claim.

6.19. *Withholding and Reporting Requirements.*

(a) *Withholding Rights.* In connection with the Plan, any party issuing any instrument or making any distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advance payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a distribution pursuant to the Plan shall have responsibility for any taxes imposed by any governmental unit, including income, withholding, and other taxes, on account of such distribution. In the event any party issues any instrument or makes any non-Cash distribution pursuant to the Plan that is subject to withholding tax and such issuing or distributing party has not sold such withheld property to generate Cash to pay the withholding tax or paid the withholding tax using its own funds and retains such withheld property as described above, such issuing or distributing party has the right, but not the obligation, to not make a distribution until such holder has made arrangements reasonably satisfactory to such issuing or disbursing party for payment of any such tax obligations.

(b) *Forms.* Any party entitled to receive any property as an issuance or distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Entity designated by the Reorganized Debtors (which Entity shall subsequently deliver to the Disbursing Agent any applicable IRS Form W-8 or Form W-9 received) an appropriate Form W-9 or (if the payee is a foreign Entity) Form W-8, and any other forms or documents reasonably requested by any Reorganized Debtor to reduce or eliminate any withholding required by any

federal, state, or local taxing authority. If such request is made and the holder fails to comply before the date that is 180 days after the request is made, the amount of such distribution shall irrevocably revert to the applicable Reorganized Debtor and any Claim in respect of such distribution shall be discharged and forever barred from assertion against such Reorganized Debtor or their respective property.

ARTICLE VII. PROCEDURES FOR DISPUTED CLAIMS.

7.1. *Objections to Claims.*

The Reorganized Debtors shall exclusively be entitled to object to Claims, *provided that* the GUC Litigation Trustee shall exclusively be entitled to object to General Unsecured Claims in Class 4. After the Effective Date, the Reorganized Debtors or the GUC Litigation Trust, as applicable, shall have and retain any and all rights and defenses that the Debtors had with regard to any Claim to which they may object, except with respect to any Claim that is Allowed. Any objections to Claims shall be served and filed on or before the later of (a) one-hundred and eighty (180) days after the Effective Date, and (b) such later date as may be fixed by the Bankruptcy Court (as the same may be extended by the Bankruptcy Court), provided that, the deadline for the GUC Litigation Trustee to file and serve objections to General Unsecured Claims in Class 4 shall be tolled until the earlier of (i) ninety (90) days after the GUC Litigation Trust Causes of Action have been fully liquidated, and (ii) such later date as may be fixed by the Bankruptcy Court (as the same may be extended by the Bankruptcy Court).

7.2. *Resolution of Disputed Administrative Expenses and Disputed Claims.*

On and after the Effective Date, the Reorganized Debtors shall have the authority to compromise, settle, otherwise resolve, or withdraw any objections to Claims without approval of the Bankruptcy Court, other than with respect to Fee Claims, *provided that* if the GUC Litigation Trust is created, the GUC Litigation Trust shall have the authority to compromise, settle, otherwise resolve, or withdraw any objections to General Unsecured Claims without approval of the Bankruptcy Court.

7.3. *Payments and Distributions with Respect to Disputed Claims.*

Notwithstanding anything herein to the contrary, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

7.4. *Distributions after Allowance.*

After such time as a Disputed Claim becomes, in whole or in part, an Allowed Claim, the holder thereof shall be entitled to distributions, if any, to which such holder is then entitled as provided in this Plan (net of any taxes incurred by the GUC Litigation Trust on account of, or otherwise allocable to, such Disputed Claims), without interest, as provided in Section 7.9 of the Plan. Such distributions shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim (or portion thereof) becomes a Final Order.

7.5. *Disallowance of Claims.*

Except to the extent otherwise agreed to by the GUC Litigation Trustee with respect to General Unsecured Claims, any Claims held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, as determined by a Final Order, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and holders of such Claims may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Final Order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Debtors or the Reorganized Debtors. All proofs of claim filed on account of an indemnification obligation to a current or former director, officer, or employee shall be deemed satisfied and expunged from the claims register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

7.6. *Estimation of Claims.*

The Debtors, the Reorganized Debtors, the Acquisition Companies, or the GUC Litigation Trust as to General Unsecured Claims, as applicable, may determine, resolve and otherwise adjudicate all contingent Claims, unliquidated Claims and Disputed Claims in the Bankruptcy Court or such other court of the Debtors' or Reorganized Debtors' choice having jurisdiction over the validity, nature or amount thereof. The Debtors, the Reorganized Debtors, or the GUC Litigation Trustee with respect to General Unsecured Claims, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason or purpose, regardless of whether any party has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any contingent Claim, unliquidated Claim or Disputed Claim, that estimated amount shall constitute the maximum limitation on such Claim, and the Debtors, the Reorganized Debtors, or the GUC Litigation Trustee, as applicable, may pursue supplementary proceedings to object to the ultimate allowance of such Claim; *provided that* such limitation shall not apply to Claims requested by the Debtors to be estimated for voting purposes only.

7.7. *No Distributions Pending Allowance.*

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

7.8. *Claim Resolution Procedures Cumulative.*

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently

settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

7.9. *Interest.*

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the holder of such Claim shall not be entitled to any interest that accrued thereon from and after the Effective Date.

ARTICLE VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

8.1. *General Treatment.*

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which any of the Debtors are parties shall be deemed rejected, unless such contract or lease (i) was previously assumed or rejected by the Debtors pursuant to an order of the Bankruptcy Court, (ii) previously expired or terminated pursuant to its own terms or by agreement of the parties thereto, (iii) is the subject of a motion to assume filed by the Debtors on or before the Confirmation Date, (iv) is a Current Employee Arrangement (including the Key Employee Agreements), or (v) is specifically designated as a contract or lease to be assumed on the Assumption Schedule.

(b) Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions, assignments and rejections provided for in this Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or assumed and assigned pursuant to this Plan (including pursuant to the LLC Transfer) shall vest in and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms, except as modified by the provisions of this Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or assumption and assignment, or applicable law.

8.2. *Determination of Cure Disputes and Deemed Consent.*

(a) Any Cure Amount shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Amount, as reflected in the applicable cure notice, in Cash on the Effective Date, subject to the limitations described below, or on such other terms as the parties to such executory contracts or unexpired leases and the Debtors may otherwise agree.

(b) The Debtors shall file, as part of the Plan Supplement, the Assumption Schedule. At least twenty-one (21) days before the commencement of the Confirmation Hearing, the Debtors shall serve a notice on parties to executory contracts or unexpired leases to be assumed reflecting the Debtors' intention to assume the contract or lease in connection with this Plan and, where applicable, setting forth the proposed Cure Amount (if any). **Any objection by a counterparty to an executory contract or unexpired lease to the proposed assumption, assumption and assignment, or related Cure Amount must be filed, served, and actually received by the Debtors within ten (10) days of the service of the assumption notice, or such shorter period as agreed to by the parties or authorized by the Bankruptcy Court.** Any counterparty to an executory contract or unexpired lease that fails to object timely to the

proposed assumption, assumption and assignment, or Cure Amount (i) shall be deemed to have assented to such assumption, assumption and assignment, or Cure Amount, notwithstanding any provision thereof that purports to (1) prohibit, restrict, or condition the transfer or assignment of such contract or lease, or (2) terminate or permit the termination of a contract or lease as a result of any direct or indirect transfer or assignment of the rights of the Debtors under such contract or lease or a change, if any, in the ownership or control to the extent contemplated by the Plan, and shall forever be barred and enjoined from asserting such objection against the Debtors or terminating or modifying such contract or lease on account of transactions contemplated by the Plan, and (ii) shall be forever barred, estopped, and enjoined from challenging the validity of such assumption or assumption and assignment, as applicable, thereafter.

(c) If there is a dispute pertaining to the assumption of an executory contract or unexpired lease (other than a dispute pertaining to a Cure Amount), such dispute shall be heard by the Bankruptcy Court prior to the assumption being effective; *provided that* the Debtors or the Reorganized Debtors may settle any such dispute without any further notice to, or action by, any party or order of the Bankruptcy Court.

(d) To the extent a dispute relates to Cure Amounts, the Debtors may assume and/or assume and assign the applicable executory contract or unexpired lease prior to the resolution of such cure dispute, *provided that* the Debtors or the Reorganized Debtors reserve Cash in an amount sufficient to pay the full amount reasonably asserted as the Cure Amount by the counterparty to such executory contract or unexpired lease.

(e) Assumption or assumption and assignment (including pursuant to the LLC Transfer) of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims against any Debtor or defaults by any Debtor, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the date that the Debtors assume or assume and assign such executory contract or unexpired Lease. Any proofs of claim filed with respect to an executory contract or unexpired lease that has been assumed or assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, upon the assumption of such executory contract or unexpired lease.

8.3. ***Rejection Damages Claims.***

In the event that the rejection of an executory contract or unexpired lease hereunder results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtors, the Reorganized Debtors, the Acquisition Companies or their respective Estates, properties or interests in property as agents, successors, or assigns, unless a proof of Claim is filed with the Bankruptcy Court and served upon counsel for the Debtors or the Reorganized Debtors, as applicable, no later than forty-five (45) days after the Effective Date.

8.4. ***Survival of the Debtors' Indemnification Obligations.***

Any and all obligations of the Debtors pursuant to their corporate charters, bylaws, limited liability company agreements, memorandum and articles of association, or other organizational documents or agreements to indemnify officers, directors, agents, or employees employed by the Debtors on or after the Commencement Date with respect to all present and future actions, suits, and proceedings against the Debtors or such officers, directors, agents, or employees based upon any act or omission for or on behalf of the Debtors shall not be discharged, impaired, or otherwise affected by this Plan; provided that the Reorganized Debtors shall not indemnify any persons for any claims or Causes of Action arising out of or relating to any act or omission that is a criminal act or constitutes fraud, gross negligence or willful misconduct. All such obligations shall be deemed and treated as executory contracts that are assumed by the Debtors under this Plan and shall continue as obligations of the Reorganized Debtors. Any claim based on the Debtors' obligations herein shall not be a Disputed Claim or subject to any objection, in either case, by reason of section 502(e)(1)(B) of the Bankruptcy Code. None of the Reorganized Debtors or Summit will amend and/or restate their respective governance documents before or after the Effective Date to terminate or adversely affect any obligations to provide such indemnification rights or such directors', officers', employees', or agents' indemnification rights.

8.5. ***Collective Bargaining Agreements.***

(a) The New Teamsters Collective Bargaining Agreements shall remain in full force and effect on and after the Effective Date.

(b) If the Amended UFCW Local One Collective Bargaining Agreements and the Amended UFCW Local 1776 KS Collective Bargaining Agreement have become effective, such agreements shall remain in full force and effect after the Effective Date subject to the respective terms thereof and in accordance with the UFCW Local One Settlement Order. If the Amended UFCW Local One Collective Bargaining Agreements and the Amended UFCW Local 1776 KS Collective Bargaining Agreement are not in effect on the Effective Date, the terms and conditions of the UFCW Local One Modification Order shall govern the terms and conditions of employment of the employees represented by UFCW Local One and UFCW Local 1776 KS.

(c) On the Effective Date, the Debtors shall assume the Other Collective Bargaining Agreements, subject to the respective terms thereof, pursuant to section 365 of the Bankruptcy Code, and the Other Collective Bargaining Agreements shall continue as obligations of the applicable Reorganized Debtors.

8.6. ***Insurance Policies.***

All insurance policies to which any Debtor is a party as of the Effective Date (including any "tail policy") shall be deemed to be and treated as executory contracts and shall be assumed by the applicable Debtors or Reorganized Debtors and shall continue as obligations of the Reorganized Debtors in accordance with their respective terms. All other insurance policies shall vest in the Reorganized Debtors.

8.7. Assignment.

To the extent provided under the Bankruptcy Code or other applicable law, any executory contract or unexpired lease transferred and assigned hereunder (including pursuant to the LLC Transfer) shall remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including those of the type set forth in section 365(b)(2) of the Bankruptcy Code) that prohibits, restricts, or conditions such transfer or assignment. To the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts, or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon any such transfer and assignment, constitutes an unenforceable antiassignment provision and is void and of no force or effect.

8.8. Reservation of Rights.

(a) The Debtors may amend the Assumption Schedule and any cure notice until the Business Day immediately prior to the commencement of the Confirmation Hearing in order to (i) add, delete, or reclassify any executory contract or unexpired lease or amend a proposed assignment and/or (ii) amend the proposed Cure Amount; *provided that* if the Confirmation Hearing is adjourned for a period of more than two (2) consecutive calendar days, the Debtors' right to amend such schedules and notices shall be extended to the Business Day immediately prior to the adjourned date of the Confirmation Hearing, with such extension applying in the case of any and all subsequent adjournments of the Confirmation Hearing. The Debtors shall provide notice of such amendment to any affected counterparty as soon as reasonably practicable.

(b) Neither the exclusion nor the inclusion by the Debtors of any contract or lease on any exhibit, schedule, or other annex to this Plan or in the Plan Supplement, nor anything contained in this Plan, shall constitute an admission by the Debtors that any such contract or lease is or is not an executory contract or unexpired lease or that the Debtors, the Reorganized Debtors, or Summit have any liability thereunder.

(c) Except as explicitly provided in this Plan, nothing herein shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtors, the Reorganized Debtors, or Summit under any executory or non-executory contract or unexpired or expired lease.

(d) Nothing in this Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtors, the Reorganized Debtors, or Summit, as applicable, under any executory or non-executory contract or unexpired or expired lease.

8.9. Modifications, Amendments, Supplements, Restatements, or Other Agreements.

Unless otherwise provided in the Plan, each executory contract or unexpired lease that is assumed shall include all modifications, amendments, supplements, restatements, or other

agreements that in any manner affect such executory contract or unexpired lease, and executory contracts and unexpired leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

ARTICLE IX. CONDITIONS PRECEDENT TO CONFIRMATION OF PLAN AND EFFECTIVE DATE.

9.1. *Conditions Precedent to Confirmation of Plan.*

The following are conditions precedent to confirmation of the Plan:

- (a) The Disclosure Statement Order shall have been entered;
- (b) the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed; and
- (c) the Bankruptcy Court shall have entered either (i) the UFCW Local One Settlement Order or (ii) the UFCW Local One Modification Order.

9.2. *Conditions Precedent to Effective Date.*

The following are conditions precedent to the Effective Date of the Plan:

- (a) the Confirmation Order shall have been entered and shall be in full force and effect and no stay thereof shall be in effect;
- (b) either (i) the Amended UFCW Local One Collective Bargaining Agreements shall be in effect or (ii) the terms and conditions set forth in the UFCW Local One Modification Order shall be in effect;
- (c) the Definitive Documents shall (i) have been executed and delivered, and any conditions precedent contained to effectiveness therein have been satisfied or waived in accordance therewith, and (ii) be in full force and effect and binding upon the relevant parties;
- (d) all actions, documents and agreements necessary to implement and consummate the Plan, including entry into the Definitive Documents and the Amended Organizational Documents, and the transactions and other matters contemplated thereby, shall have been effected or executed;
- (e) the Amended Organizational Documents shall have been filed with the appropriate governmental authority, as applicable;
- (f) all governmental approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions, and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by

any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;

(g) the Management Incentive Plan shall have been adopted and shall be in full force and effect; and

(h) all accrued and unpaid professional fees and expenses of the Ad Hoc Committee as of the Effective Date and all DIP Professional Fees shall have been indefeasibly paid in full in Cash.

9.3. *Waiver of Conditions Precedent.*

(a) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 may be waived in writing by the Debtors with the prior written consent of the (i) Requisite Ad Hoc Committee Members and the Acquisition Companies, (ii) the DIP ABL Agent or Exit ABL Agent, solely to the extent that the waiver of a particular conditions precedent would affect the legal and/or economic rights of the DIP ABL Agent, the DIP ABL Lenders, the Exit ABL Agent or the Exit ABL Lenders, as applicable, under the Plan, the DIP ABL Credit Agreement, or the Exit ABL Credit Agreement, and (iii) with respect to conditions precedent related to the GUC Litigation Trust, the Creditors' Committee. If the Plan is confirmed for fewer than all of the Debtors as provided for in Section 5.20 of the Plan, only the conditions applicable to the Debtor or Debtors for which the Plan is confirmed must be satisfied or waived for the Effective Date to occur as to such Debtors.

(b) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

9.4. *Effect of Failure of a Condition.*

If the conditions listed in Section 9.2 of the Plan are not satisfied or waived in accordance with Section 9.3 of the Plan on or before the first Business Day that is more than sixty (60) days after the date on which the Confirmation Order is entered or by such later date as set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a waiver or release of any Claims by or against or any Interests in the Debtors, (b) prejudice in any manner the rights of any Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtors, the members of the Ad Hoc Committee, the Exit ABL Agent, the Exit Term Loan Agent, or any other Entity.

ARTICLE X. EFFECT OF CONFIRMATION OF PLAN.

10.1. *Vesting of Assets.*

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property of the Debtors' Estates shall vest in the Reorganized Debtors (including the

Acquisition Companies, as applicable) free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Confirmation Order, the Exit ABL Credit Agreement, the Exit Term Loan Credit Agreement, or the LLC Transfer Transaction Documents (if applicable). On and after the Effective Date, the Reorganized Debtors may take any action, including the operation of their businesses, the use, acquisition, sale, lease, and disposition of property, and the entry into transactions, agreements, understandings, or arrangements, whether in or other than in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

10.2. ***Binding Effect.***

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtors and their respective successors and assigns, notwithstanding whether any such holders were (a) Impaired or Unimpaired under the Plan, (b) deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, (d) voted to reject the Plan, or (e) received any distribution under the Plan.

10.3. ***Discharge of Claims and Termination of Interests.***

Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Entities shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtors against the Debtors, the Reorganized Debtors, Summit, the Acquisition Companies or any of its or their Assets or property, whether or not such holder has filed a proof of claim and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

10.4. ***Term of Injunctions or Stays.***

Unless otherwise provided herein, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

10.5. *Injunction.*

(a) Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim or Interest extinguished, discharged, released or treated pursuant to the Plan.

(b) Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtors and a holder of a Claim against or Interest in the Debtors, all Entities who have held, hold, or may hold Claims against or Interests in any or all of the Debtors (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, released, or treated pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Released Parties or the property of any of the Released Parties, (ii) enforcing, levying, attaching (including any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties, (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except as contemplated or allowed by the Plan; and (e) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(c) By accepting distributions pursuant to the Plan, each holder of an Allowed Claim or Interest extinguished, discharged, or released pursuant to the Plan shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including the injunctions set forth in this Section 10.5.

(d) The injunctions in this Section 10.5 shall extend to any successors of the Debtors and the Reorganized Debtors, Summit, or the Acquisition Companies, as applicable, and their respective property and interests in property.

10.6. ***Releases.***

(a) **Releases by the Debtors.**

Subject to Sections 10.6(c) and 10.6(d) of the Plan, as of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, the Released Parties shall be deemed released and discharged by the Debtors, the Reorganized Debtors, and the Estates, and any Person seeking to exercise the rights of the Estates, including the GUC Litigation Trust (if established) and any successors to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, from any and all claims, obligations, rights, suits, judgments, damages, demands, debts, rights, Causes of Action (other than Causes of Action against the Prior Sponsor Group), remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtors, the Reorganized Debtors, or the Estates, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that the Debtors, the Reorganized Debtors, or the Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the conduct of the Debtors' businesses, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any Security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtors and any Released Party, the Restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Cases, the Disclosure Statement, the Plan, and the Definitive Documents, or any related agreements, instruments, or other documents, and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; *provided that* nothing in this Section 10.6(a) shall be construed to release the Released Parties from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

(b) **Consensual Releases.**

As of the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, for good and valuable consideration, on and after the Effective Date, each of the Released Parties shall be deemed released and discharged by:

- (i) the holders of Impaired Claims who abstain from voting on the Plan or vote to reject the Plan but do not opt-out of these releases on the Ballots;
- (ii) the holders of Impaired Claims who vote to accept the Plan;

- (iii) the UFCW Local One 401(k) Savings Fund;
- (iv) each of the other Released Parties (other than the Debtors and the Reorganized Debtors); and
- (v) with respect to any Entity in the foregoing clauses (i) through (iv), (x) such Entity's predecessors, successors, and assigns, and (y) all Persons entitled to assert Claims through or on behalf of such Entities with respect to the matters for which the releasing Entities are providing releases;

in each case, from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever (including contract claims, claims under ERISA and all other statutory claims, claims for contributions, withdrawal liability, reallocation liability, redetermination liability, interest on any amounts, liquidated damages, claims for attorneys' fees or any costs or expenses whatsoever), including any derivative claims, asserted or assertable on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert in its own right (whether individually or collectively) based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Estates, the Restructuring, the Chapter 11 Cases, the purchase, sale or rescission of the purchase or sale of any Security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party (other than assumed contracts or leases), the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, preparation or consummation of the Plan (including the Plan Supplement), the Definitive Documents, or any related agreements, instruments or other documents, or the solicitation of votes with respect to the Plan, in all cases based upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; *provided that* nothing herein shall be construed to release any party or Entity from gross negligence, willful misconduct or intentional fraud as determined by a Final Order; *provided, further, that* nothing in the Plan shall limit the liability of professionals to their clients pursuant to applicable law.

(c) Nothing in the Plan shall limit the liability of professionals to their clients pursuant to N.Y. Comp. Codes R. & Regs. tit. 22 § 1200.8 Rule 1.8(h)(1) (2009).

(d) The releases set forth in this Section 10.6 shall not apply to any Causes of Action against any of the members of the Prior Sponsor Group.

10.7. *Exculpation.*

Notwithstanding anything herein to the contrary, and to the maximum extent permitted by applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment,

damage, demand, debt, right, cause of action, remedy, loss, and liability for any claim in connection with or arising out of the administration of the Chapter 11 Cases; the negotiation, formulation, preparation, dissemination, implementation, administration, confirmation, consummation, and pursuit of approval of the New Teamsters Collective Bargaining Agreements and the Amended UCFW Local Collective Bargaining Agreements, including withdrawal from the UFCW Local One Pension Fund, the negotiation, formulation, preparation, dissemination, implementation, administration, confirmation, consummation, and pursuit of the Disclosure Statement, the restructuring transactions, the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding or consummation of the Plan (including the Plan Supplement), the Definitive Documents, or any related agreements, instruments, or other documents, the solicitation of votes on the Plan; the offer, issuance, and distribution of any Securities issued or to be issued pursuant to the Plan, whether or not such distribution occurs following the Effective Date, the occurrence of the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed under the Plan, except for actions determined by Final Order to constitute gross negligence, willful misconduct, or intentional fraud. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability.

10.8. *Subordinated Claims.*

The allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors reserve the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

10.9. *Retention of Causes of Action/Reservation of Rights.*

Except as otherwise provided in Sections 5.3, 5.21, 10.5, 10.6, 10.7, and 10.10 of the Plan, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, Claims, Causes of Action, rights of setoff or recoupment, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance with any provision of the Bankruptcy Code or any applicable nonbankruptcy law, including any affirmative Causes of Action against parties with a relationship with the Debtors. The Reorganized Debtors (including, in the event the LLC Transfer occurs, the Acquisition Companies) or the GUC Litigation Trustee in connection with the pursuit of GUC Litigation Trust Causes of Action or objection to General Unsecured Claims, shall have, retain, reserve, and be entitled to assert all such Claims, Causes of Action, rights of setoff or recoupment, and other legal or equitable defenses notwithstanding the occurrence of the Effective Date, and all of the Debtors' legal and equitable rights in respect of any Unimpaired Claim may be asserted after the Confirmation Date and Effective Date to the same extent as if the Chapter 11 Cases had not been commenced.

10.10. *Avoidance Actions.*

From and after the Effective Date, the Reorganized Debtors shall be deemed to have waived the right to prosecute any Avoidance Actions, other than (a) as a defense to any Claims asserted against the Debtors, their Estates, or the Reorganized Debtors, pursuant to section 502(d) of the Bankruptcy Code or (b) any Avoidance Actions against the Prior Sponsor Group.

10.11. *Solicitation of Plan.*

As of and subject to the occurrence of the Confirmation Date: (a) the Debtors shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (b) the Debtors and each of their respective directors, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation shall not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any securities under the Plan.

10.12. *Corporate and Limited Liability Company Action.*

Upon the Effective Date, all actions of the Debtors or the Reorganized Debtors, as applicable, contemplated by the Plan shall be deemed authorized and approved in all respects, including (a) those set forth in Section 5.15 of the Plan, (b) the selection of the managers, directors, and officers for the Reorganized Debtors (other than the Acquisition Companies), (c) the distribution, transfer, or issuance of the New Equity Interests, (d) the entry into the Shareholders Agreement, (e) the entry into the Exit ABL Credit Agreement; (f) the entry into the Exit Term Loan and the Exit Term Loan Credit Agreement, (g) the entry into the New Second Lien Notes Indenture, (h) as related to the Debtors, the entry into the LLC Transfer Transaction Documents (if applicable) and (i) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date), in each case, in accordance with and subject to the terms hereof. All matters provided for in the Plan involving the corporate or limited liability company structure of the Debtors or the Reorganized Debtors, and any corporate or limited liability company action required by the Debtors or the Reorganized Debtors in connection with the Plan shall be in effect, without any requirement of further action by the security holders, directors, managers, or officers of the Debtors or the Reorganized Debtors (other than the Acquisition Companies, as to which, in the event the LLC Transfer occurs, all action necessary to effectuate the APA and the LLC Transfer shall have been taken). On or (as applicable) before the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized and directed to issue, execute, and deliver the agreements, documents, securities, and instruments, certificates of merger, certificates of conversion, certificates of incorporation, or comparable documents, or franchise tax reports contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the

Reorganized Debtors, including, (a) the Amended Organizational Documents, (b) the Shareholders Agreement, (c) the Exit ABL Credit Agreement, (d) the Exit Term Loan Credit Agreement, (e) the New Second Lien Notes Indenture, (f) the LLC Transfer Transaction Documents (if applicable), and (g) any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Section 10.12 shall be effective notwithstanding any requirements under non-bankruptcy law.

ARTICLE XI. RETENTION OF JURISDICTION.

11.1. *Retention of Jurisdiction.*

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption, assumption and assignment, or rejection of executory contracts or unexpired leases, including disputes over Cure Amounts, and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;

(c) to ensure that distributions to holders of Allowed Claims are accomplished as provided for in the Plan and Confirmation Order and to adjudicate any and all disputes arising from or relating to distributions under the Plan, including, cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the holder of a Claim or Interest for amounts not timely paid;

(d) to consider the allowance, classification, priority, compromise, estimation, or payment of any Claim;

(e) to enter, implement or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation, implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all Fee Claims;

(i) to adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Plan Supplement, or the Confirmation Order or any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

(l) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(m) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(n) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including the releases, discharge, exculpations, and injunctions issued thereunder;

(o) to resolve disputes concerning Disputed Claims or the administration thereof;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter a final decree closing the Chapter 11 Cases;

(r) to adjudicate any and all disputes arising from or relating to distributions under the Plan;

(s) to resolve disputes as to the ownership of any Claim or Interest;

(t) to recover all Assets of the Debtors and property of the Debtors' Estates, wherever located;

(u) to resolve any disputes concerning whether an Entity had sufficient notice of the Chapter 11 Cases, the Disclosure Statement, any solicitation conducted in connection with the Chapter 11 Cases, any bar date established in the Chapter 11 Cases, or any deadline for responding or objecting to a Cure Amount, in each case, for the purpose of determining whether a Claim or Interest is discharged hereunder or for any other purpose;

(v) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtors pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory; and

(w) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1) of the Bankruptcy Code.

11.2. *Courts of Competent Jurisdiction.*

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

ARTICLE XII. MISCELLANEOUS PROVISIONS.

12.1. *Payment of Statutory Fees.*

On the Effective Date and thereafter as may be required, the Reorganized Debtors shall pay all fees due and payable pursuant to section 1930(a) of title 28 of the United States Code for each Debtor's case, or until such time as a final decree is entered closing a particular Debtor's case, a Final Order converting such Debtor's case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing such Debtor's case is entered.

12.2. *Substantial Consummation of the Plan.*

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

12.3. *Dissolution of Creditors' Committee.*

On the Effective Date, the Creditors' Committee shall dissolve, and the members thereof shall be released and discharged from all rights and duties arising from, or related to, the Chapter 11 Cases, *provided that* following the Effective Date, the Creditors' Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (a) Claims and/or applications, and any relief related thereto, for compensation by professional persons retained in the Chapter 11 Cases pursuant to sections 327, 328, 329, 330, 331, 503(b), or 1103 of the Bankruptcy Code and requests for allowance of Administrative Expense Claims for substantial contribution pursuant to section 503(b)(3)(D) of the Bankruptcy Code; and (b) any appeals of the Confirmation Order or other appeals to which the Creditors' Committee is a party.

12.4. *Plan Supplement.*

The Plan Supplement shall be filed with the Clerk of the Bankruptcy Court. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Documents included in the Plan Supplement shall be posted at the website of the Debtors' notice, claims, and solicitation agent.

12.5. *Request for Expedited Determination of Taxes.*

The Reorganized Debtors shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns of the Debtors filed, or to be filed, for any and all taxable periods ending after the Commencement Date through the Effective Date.

12.6. *Exemption from Certain Transfer Taxes.*

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any securities, instruments or documents, (b) the creation of any Lien, mortgage, deed of trust, or other security interest, (c) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the revesting, transfer, or sale of any real or personal property of the Debtors pursuant to, in implementation of or as contemplated in the Plan (whether to one or more of the Reorganized Debtors or otherwise), (d) the grant of collateral under the Exit ABL Credit Agreement, the Exit Term Loan Credit Agreement, and the New Second Lien Notes Indenture, and (e) the issuance, renewal, modification, or securing of indebtedness by such means, and the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including the Confirmation Order, shall not be subject to any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

12.7. *Amendments.*

(a) Subject to the consent of (i) the Requisite Ad Hoc Committee Members, (ii) the DIP ABL Agent or Exit ABL Agent solely to the extent that an amendment would affect the legal and/or economic rights of the DIP ABL Agent, the DIP ABL Lenders, the Exit ABL Agent or the Exit ABL Lenders, as applicable, under the Plan, the DIP ABL Credit Agreement or the Exit ABL Credit Agreement, and (iii) the Creditors' Committee, solely with respect to matters relating to the treatment of General Unsecured Claims or the GUC Litigation Trust, the Debtors or, in the event the LLC Transfer occurs, the Acquisition Companies, reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code. After entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court, amend, modify, or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, in each case without additional disclosure pursuant to section 1125 of the Bankruptcy Code.

(b) Before the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement to cure any non-substantive ambiguity, defect (including any technical defect), or inconsistency without further order or approval of the Bankruptcy Court.

12.8. *Effectuating Documents and Further Transactions.*

Each of the officers of the Reorganized Debtors is authorized, in accordance with his or her authority under the resolutions of the applicable board of directors or managers (on terms materially consistent with the Plan), to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, which shall be in form and substance reasonably satisfactory to the Debtors, the Requisite Ad Hoc Committee Members, the Creditors' Committee with respect to matters relating to the GUC Litigation Trust and, if applicable, the Acquisition Companies.

12.9. *Revocation or Withdrawal of the Plan.*

The Debtors may, with the consent of the Requisite Ad Hoc Committee Members, revoke or withdraw the Plan prior to the Effective Date as to any or all of the Debtors; *provided that* the Debtors may revoke or withdraw the Plan without such consent in the exercise of the Debtors' fiduciary duty. If, with respect to a Debtor, the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to such Debtor does not occur on the Effective Date, then, with respect to such Debtor: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing of or limiting to an amount of any Claim or Interest or Class of Claims or Interests), assumption of executory contracts or unexpired leases affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, such Debtor or any other Entity, (ii) prejudice in any manner the rights of such Debtor or any other Entity, or (iii) constitute an admission of any sort by any Debtor, any of the members of the Ad Hoc Committee, or any other Entity.

12.10. *Severability of Plan Provisions.*

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted; *provided that* any such alteration or interpretation shall be acceptable to the Debtors and the Requisite Ad Hoc Committee Members. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and

enforceable pursuant to its terms, (b) integral to the Plan and may not be deleted or modified without the consent of the Debtors, the Reorganized Debtors or, if applicable, the Acquisition Companies (as the case may be), the Requisite Ad Hoc Committee Members and the DIP ABL Agent or Exit ABL Agent, solely to the extent that a particular term or provision affects the legal and/or economic rights of the DIP ABL Agent, the DIP ABL Lenders, the Exit ABL Agent or the Exit ABL Lenders, as applicable, under the Plan, the DIP ABL Credit Agreement, or the Exit ABL Credit Agreement and (c) nonseverable and mutually dependent.

12.11. ***Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto or a schedule in the Plan Supplement or a Definitive Document provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

12.12. ***Time.***

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12.13. ***Dates of Actions to Implement the Plan.***

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

12.14. ***Immediate Binding Effect.***

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtors, the holders of Claims and Interests (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), the Released Parties, the Exculpated Parties and each of their respective successors and assigns, including the Reorganized Debtors.

12.15. ***Deemed Acts.***

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

12.16. *Successor and Assigns.*

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or permitted assign, if any, of each Entity.

12.17. *Entire Agreement.*

On the Effective Date, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

12.18. *Exhibits to Plan.*

All exhibits, schedules, supplements, and appendices to the Plan (including the Plan Supplement) are incorporated into and are a part of the Plan as if set forth in full herein.

12.19. *Notices.*

All notices, requests, and demands to or upon the Debtors to be effective shall be in writing (including by electronic or facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

- (a) if to the Debtors or the Reorganized Debtors:

Tops Holding II Corporation
PO Box 1027
Buffalo, New York 14240-1027
Attn: Frank Curci
David Langless
Michael Biehler, Esq.
Telephone: (716) 635-5000
Facsimile: (716) 635-5102
Email: fcurci@topsmarkets.com
dlangless@topsmarkets.com
mbiehler@topsmarkets.com

- and -

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153
Attn: Ray C. Schrock, P.C.
Stephen Karotkin, Esq.
Sunny Singh, Esq.

Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Email: ray.schrock@weil.com
stephen.karotkin@weil.com
sunny.singh@weil.com

(b) if to the Ad Hoc Committee:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019-6064
Attn: Alan W. Kornberg, Esq.
Robert A. Britton, Esq.
Telephone: (212) 373-3000
Facsimile: (212) 757-3990
Email: akornberg@paulweiss.com
rbritton@paulweiss.com

(c) If to the Creditors' Committee:

Morrison & Foerster LLP
250 W 55th St.
New York, NY 10019
Attn: Brett H. Miller
Jonathan I. Levine
Dennis L. Jenkins
Telephone: (212) 468-8000
Facsimile: (212) 468-7900
Email: brettmiller@mofo.com
jonlevine@mofo.com
djenkins@mofo.com

After the Effective Date, the Debtors have authority to send a notice to Entities providing that, to continue to receive documents pursuant to Bankruptcy Rule 2002, they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors and Reorganized Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

Dated: August 31, 2018

Respectfully submitted,

Tops Holding II Corporation and each of the other
Debtors

By: /s/ Michael Buenzow
Name: Michael Buenzow
Title: Chief Restructuring Officer

Exhibit A

Exit ABL Credit Agreement Term Sheet

[To Come]

Exhibit B

Exit Term Loan Credit Agreement Term Sheet

NOT A COMMITMENT TO LEND

TOPS HOLDING II CORPORATION, ET AL.
\$160 MILLION
SENIOR SECURED EXIT TERM LOAN FACILITY
AND
\$100 MILLION
SECURED EXIT NOTES

SUMMARY OF TERMS AND CONDITIONS

On February 21, 2018, Tops Holding II Corporation and certain of its subsidiaries (the “Debtors”) commenced cases (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as amended (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). The Debtors intend to effectuate their restructuring in the Chapter 11 Cases pursuant to a plan of reorganization to be filed with the Bankruptcy Court in form and substance acceptable to the Exit Term Loan Lenders (as defined below) (the “Plan”).

This summary of terms and conditions (the “Term Sheet”) outlines certain terms of the proposed \$160 million senior secured exit term loan facility (the “Exit Term Loan Facility”), and **Annex III** hereto outlines certain terms of the proposed \$100 million secured exit notes (the “Exit Notes”) to be issued by the Company (as defined below) to the Prepetition Secured Noteholders (as defined below) pursuant to the Plan. This Term Sheet is intended for discussion purposes only and does not constitute a commitment to lend. This Term Sheet is non-binding and the proposal for the Exit Term Loan Facility and the Exit Notes contained herein is subject to, among other things, confirmation of the Plan by the Bankruptcy Court (the date of such confirmation, the “Confirmation Date”) and the negotiation, documentation and execution of definitive documentation. Only execution and delivery of definitive documentation relating to the Exit Term Loan Facility, the Exit Notes, and the other transactions contemplated hereunder and by the Plan shall result in any binding or enforceable obligations of any party relating to the Exit Term Loan Facility or the Exit Notes. The terms and conditions for the extension of credit described herein are dependent upon, among other things, internal authorization and approval by the appropriate credit committees for each of the Exit Term Loan Lenders.

Summary of Exit Term Loan Facility

Parties

Borrower: Reorganized Tops Markets, LLC, a New York limited liability company (the “Company”).

Guarantors: The Exit Term Loan Obligations (as defined below) under the Exit Term Loan Facility and the related loan and ancillary documents (the “Exit Term Loan Documents”), which Exit Term Loan Documents shall be in form and substance reasonably acceptable to the lenders under the Exit Term Loan Facility (the “Exit Term Loan Lenders”) and the Agent (as defined below), will be unconditionally guaranteed (the “Guarantee”) jointly and severally on a senior secured basis by each subsidiary of the Company, as set forth on **Annex I** hereto (the “Guarantors”).

The Company and the Guarantors are collectively herein referred to as the “Exit Term Loan Obligors”.

	<p><u>Exit Term Loan Lenders:</u> Participation in the Exit Term Loan Facility will be offered to all DIP Term Loan Lenders (as defined below) and/or their respective affiliates or designees on a <i>pro rata</i> basis.</p> <p><u>Agent:</u> An entity, reasonably acceptable to the Required Term Loan Lenders and the Borrower, as administrative and collateral agent for the Exit Term Loan Lenders under the Exit Term Loan Facility (in such capacity, the “<u>Agent</u>”).</p>
Existing Facilities	<p><u>Prepetition Secured Notes:</u> The 8.000% Senior Secured Notes due June 15, 2022 issued by Tops Holding LLC, a Delaware corporation (“<u>Tops Holding</u>”), and Tops Markets II Corporation, a Delaware corporation (“<u>Tops Markets II</u>”), in the aggregate principal amount of \$560 million, under and pursuant to the terms of that certain indenture, dated as of June 10, 2015 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “<u>Prepetition Secured Notes Indenture</u>”, and the notes issued pursuant thereto, the “<u>Prepetition Secured Notes</u>,” and the holders thereof, the “<u>Prepetition Secured Noteholders</u>”), by and among Tops Holding and Tops Markets II, as co-issuers, the guarantors party thereto, and Ankura Trust Company, as indenture trustee (the “<u>Prepetition Secured Notes Trustee</u>”).</p> <p><u>DIP ABL Facility:</u> An asset-based revolving credit facility with a maximum principal availability of \$140 million made available to the Debtors pursuant to that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of February 23, 2018, among the Tops Markets, LLC, as the lead borrower, the other borrowers and guarantors party thereto, Bank of America, N.A., as agent (the “<u>DIP ABL Agent</u>”), and the lenders party thereto from time to time (the “<u>DIP ABL Lenders</u>”) (such agreement, together with all exhibits and other ancillary documentation in respect thereof, as amended, the “<u>DIP ABL Facility</u>”).</p> <p><u>DIP Term Loan Facility:</u> A non-amortizing senior secured multi-draw term loan facility with a maximum principal availability of \$125 million made available to the Debtors pursuant to that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of February 23, 2018, among the Tops Markets, LLC, as the initial borrower, the other borrowers and guarantors party thereto, Cortland Capital Market Services LLC, as administrative agent and collateral agent (the “<u>DIP Term Loan Agent</u>,” together with the DIP ABL Agent, the “<u>DIP Agents</u>”), and the lenders party thereto from time to time (the “<u>DIP Term Loan Lenders</u>,” together with the DIP ABL Lenders, the “<u>DIP Lenders</u>”) (such agreement, together with all exhibits and other ancillary documentation in respect thereof, as amended, the “<u>DIP Term Loan Facility</u>,” together with the DIP ABL Facility, the “<u>DIP Facilities</u>”).</p>
Exit ABL Facility	<p>It is contemplated that the DIP ABL Facility will be rolled into an asset-based revolving credit facility in an amount to be agreed (the “<u>Exit ABL Facility</u>”), to be provided by Bank of America.</p>
Exit Term Loan Facility	<p>The Exit Term Loan Facility shall be a senior secured term loan facility in an aggregate principal amount equal to \$160 million.</p> <p>Amounts paid or prepaid under the Exit Term Loan Facility may not be reborrowed.</p> <p>Subject to the terms and conditions set forth herein, the proceeds of the loans made under the Exit Term Loan Facility (the “<u>Exit Term Loans</u>”) will be used (a) to pay all amounts due and</p>

	owing to the DIP Agents and DIP Lenders under the DIP Facilities, including attorneys' fees and expenses, (b) to pay all reasonable out-of-pocket professional fees and expenses (including legal, financial advisor, appraisal and valuation-related fees and expenses) incurred by the Agent and the Exit Term Loan Lenders in connection with, among other things, the preparation, negotiation, documentation and approval of the Plan and the Exit Term Loan Facility, (c) to pay amounts required to be paid by the Debtors under the Plan, and (d) to provide on-going working capital to, and for other general corporate purposes of, the Company and its subsidiaries.
Fees and Expenses	The Exit Term Loan Facility shall provide for the customary reimbursement of the fees and expenses of the Agent and the Exit Term Loan Lenders, including the fees and expenses of financial and legal advisors.
Collateral Security	<u>Collateral:</u> All obligations of the Exit Term Loan Obligors to the Exit Term Loan Lenders and the Agent under the Exit Term Loan Documents (the " <u>Exit Term Loan Obligations</u> "), including all Exit Term Loans, shall at all times be entitled to a first priority security interest in the DIP Term Loan Priority Collateral (as defined in the Plan, which, for the avoidance of doubt, shall not include Avoidance Actions (as defined in the Plan)) (i.e., fixed assets) and a second priority security interest in the DIP ABL Priority Collateral (as defined in the Plan, which, for the avoidance of doubt, shall not include Avoidance Actions (as defined in the Plan)) (i.e., inventory and receivables), unless otherwise expressly provided for in the Exit Term Loan Facility agreement, or agreed to by the Required Exit Term Loan Lenders.
Closing Date	The date on or following the Confirmation Date on which the commitments are made available for borrowings under the Exit Term Loan Facility (the " <u>Closing Date</u> "), subject to satisfaction (or waiver by the Required Exit Term Loan Lenders) of the applicable conditions precedent set forth herein and in the Exit Term Loan Documents; <u>provided</u> that, unless consented to by the Agent, in no event shall the Closing Date occur more than 30 days after the Confirmation Date.
Term	5 years.
Interest Rate/Default Interest Rate/Fees	The interest rate, default rate and fees applicable to the Exit Term Loan Facility are appended as <u>Annex II</u> hereto.
ECF Sweep	[TBD]
Conditions to Closing	<p><u>Conditions to Closing</u></p> <p>1. Bankruptcy and Regulatory Matters.</p> <p>(a) The Bankruptcy Court shall have entered an order in form and substance reasonably acceptable to the Agent and the Exit Term Loan Lenders confirming the Plan, and such order (the "<u>Confirmation Order</u>") and Plan shall be in full force and effect, and shall not (in whole or in part) have been reversed, modified, amended, stayed, vacated or subject to stay pending appeal. The Exit Term Loan Obligors shall be in compliance in all respects with the Confirmation Order.</p>

	<p>(b) All of the conditions precedent to the effectiveness of the Plan shall have been satisfied or waived in accordance with the terms thereof.</p> <p>(c) The Exit ABL shall have closed and be in form and substance reasonably satisfactory to the Exit Term Loan Lenders.</p> <p>2. Customary Closing Documents.</p> <p>(a) All documented costs, fees, expenses (including, without limitation, reasonable and documented legal fees) and other compensation contemplated by the Exit Term Loan Documents and this Term Sheet to be paid to the Agent and the Exit Term Loan Lenders on the Closing Date shall have been paid to the extent due.</p> <p>(b) The Required Exit Term Loan Lenders and the Agent shall be satisfied that the Exit Term Loan Obligors have complied with all other customary closing conditions, including, without limitation, execution and delivery of customary loan and note documentation, guarantees, collateral security documents, the delivery of customary legal opinions, corporate records and documents from public officials, officer's certificates, and UCC and other filings. The Exit Term Loan Lenders shall have received prior to the Closing Date all documentation and other information required by bank regulatory authorities under applicable "know-your-customer", anti-money laundering, and beneficial ownership rules and regulations, including the Patriot Act, in each case reasonably satisfactory to each Exit Term Loan Lender.</p> <p>(c) Execution and delivery by the Exit Term Loan Obligors of the Exit Term Loan Documents and promissory notes (if requested by any Exit Term Loan Lender) evidencing the loans made and to be made under the Exit Term Loan Facility.</p> <p>(d) Such other customary conditions as are reasonably requested by the Agent to be satisfied by the Exit Term Loan Obligors prior to the Closing Date, including delivery of a budget and business plan through the end of the fiscal year reasonably acceptable to the Exit Term Loan Lenders and the Agent.</p>
<p>Additional Conditions Precedent to Borrowing</p>	<p>The Exit Term Loan Documents will contain such other borrowing conditions precedent deemed by the Exit Term Loan Lenders in their reasonable discretion to be appropriate to the specific transaction, and in any event, including, without limitation, on the Closing Date and on the date of any subsequent funding, the following conditions precedent shall have been satisfied:</p> <p>(a) No event of default shall exist under the Exit Term Loan Documents or the Exit Notes Indenture.</p> <p>(b) The representations and warranties of the Borrower and each Guarantor under the Exit Term Loan Documents shall be true and correct in all material respects after giving effect to such funding.</p> <p>(c) The making of such Exit Term Loan shall not violate any requirement of law and shall not be enjoined, temporarily, preliminarily or permanently.</p> <p>(d) Other than proceedings relating to the approval of the Exit Term Loan Facility and the Plan, there shall exist no action, litigation or proceeding pending before any</p>

	<p>arbitrator or governmental instrumentality with respect to the Exit Term Loan Facility or the transactions contemplated thereby.</p> <p>(e) The Confirmation Order and the Plan shall be in full force and effect, and shall not (in whole or in part) have been reversed, modified, amended, stayed, vacated or subject to stay pending appeal.</p>
Covenants	<p>The covenants are expected to be largely consistent with the covenants contained in the DIP Term Loan Facility and to include affirmative and negative covenants that are customary for similar exit financings, and which shall otherwise be reasonably acceptable to the Exit Term Loan Lenders, including, without limitation:</p> <p><u>Information Covenants:</u></p> <p>The Company shall provide to the Agent (for distribution to the Exit Term Loan Lenders) such reporting as is customary for exit financings or reasonably requested by the Exit Term Loan Lenders.</p> <p><u>Affirmative Covenants:</u></p> <p>(a) Reasonable access to non-privileged information (including historical information) and relevant personnel regarding strategic planning, cash and liquidity management, operational and restructuring activities, subject to customary confidentiality restrictions.</p> <p>(b) Other customary affirmative covenants for an exit financing facility of this type or that are reasonably requested by the Exit Term Loan Lenders.</p> <p><u>Negative Covenants:</u></p> <p>(a) Customary limitations on indebtedness and restricted payments for an exit financing facility of this type or that are reasonably requested by the Exit Term Loan Lenders.</p> <p>(b) Create or permit to exist any liens or encumbrances on any assets, other than existing liens which are not being satisfied or released pursuant to the Plan and any other liens permitted under the Exit Term Loan Facility.</p> <p>(c) [Financial Covenants TBD]</p> <p>(d) Other customary negative covenants for an exit financing facility of this type or that are reasonably requested by the Exit Term Loan Lenders.</p>
Representations & Warranties	<p>The Exit Term Loan Documents shall contain representations and warranties customary for an exit financing facility of this type, and which shall otherwise be reasonably acceptable to the Exit Term Loan Lenders.</p>

Prepayments	<p><u>Voluntary Prepayment:</u> The Exit Term Loan Documents shall permit voluntary prepayments of the Exit Term Loan Obligations, subject to payment of the Prepayment Premium set forth in <u>Annex III</u>.</p> <p><u>Mandatory Prepayment:</u> The Exit Term Loan Documents shall contain customary mandatory prepayment provisions with respect to, among other things, asset sales, with customary baskets, reinvestment rights and exceptions to be agreed.</p>
Events of Default	The Exit Term Loan Documents will contain events of default (collectively, the “ <u>Exit Term Loan Events of Default</u> ”) and remedies that are consistent with this Term Sheet and customary for similar exit financings, and which shall otherwise be reasonably acceptable to the Exit Term Loan Lenders, including the Plan not being in full force and effect.
Indemnity	The Exit Term Loan Obligors shall, jointly and severally, be obligated to indemnify and hold harmless the Agent, each of the Exit Term Loan Lenders, and each of their respective affiliates, officers, directors, fiduciaries, employees, agents, advisors, attorneys and representatives from and against all losses, claims, liabilities, damages, and expenses (including, without limitation, out-of-pocket fees and disbursements of counsel) in connection with any investigation, litigation or proceeding (including the preparation of any defense with respect thereto) arising out of or relating to the Exit Term Loan Facility, the Plan, or the transactions contemplated hereby and thereby.
Required Exit Term Loan Lenders	Exit Term Loan Lenders holding more than 50% of the aggregate undrawn commitments and outstanding Exit Term Loans (the “ <u>Required Exit Term Loan Lenders</u> ”).
Voting, Amendments, Waivers & Modifications	Required Exit Term Loan Lenders, except for provisions customarily requiring super-majority approval or approval by affected Exit Term Loan Lenders.
Assignments and Participations	Customary for similar exit financings, with Borrower’s consent rights with respect to any assignment to a customer or operating competitor of any Exit Term Loan Obligor.
Yield Protection, Taxes and Other Deductions	Customary for similar exit financings, and which shall be reasonably acceptable to the Exit Term Loan Lenders.
Fees and Expenses	Agent and Exit Term Loan Lenders.
Submission to Jurisdiction & Governing Law	Jurisdiction in state or federal court of competent jurisdiction in the state, county and city of New York, borough of Manhattan; waiver of any right to trial by jury. New York law shall govern the Exit Term Loan Documents (other than security documents to be governed by local law).
Counsel to the Exit Term Loan Lenders	Paul, Weiss, Rifkind, Wharton & Garrison LLP.
Counsel to the Debtors	Weil, Gotshal & Manges LLP.

Counsel to the Agent	[TBD].
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Annex I

Company/Borrower

Reorganized Tops Markets, LLC

Guarantors

Reorganized Tops Holding LLC
Reorganized Tops Gift Card Company, LLC
Reorganized Tops PT, LLC
Reorganized Erie Logistics LLC
Reorganized Tops MBO Corporation
Reorganized Tops Holding II Corporation
Reorganized Tops Markets II Corporation
Reorganized TM1, LLC

Annex II

Exit Term Loan Facility Interest and Fees

Interest Rates:	The interest rate applicable to the Exit Term Loans will be LIBOR (subject to a 1.00% floor) plus 8.50% <i>per annum</i> , and will be payable at the end of the applicable LIBOR interest period, but not less frequently than every three months.
Amortization:	1.00% annually
Default Interest:	During the continuance of an Event of Default, the loans and all other outstanding obligations will bear interest at an additional 2.00% <i>per annum</i> , <u>plus</u> the interest rate otherwise applicable.
Upfront Premium:	3.00% of the aggregate principal amount of commitments in respect of the Exit Term Loan Facility, to be deducted from the initial Exit Term Loans.
Agency Fees:	The fees to be as set forth in an Agency Fee Letter between the Company and the Agent.
Prepayment Premium:	[TBD].

Exhibit C

New Second Lien Notes Indenture Term Sheet

NOT A COMMITMENT TO LEND

Annex III

Summary of Exit Notes¹	
Parties	<p><u>Issuer:</u> Same as under <i>Summary of Exit Term Loan Facility</i>.</p> <p><u>Guarantors:</u> Same as under <i>Summary of Exit Term Loan Facility</i>.</p> <p>The Company and the Guarantors are collectively herein referred to as the “<u>Exit Notes Obligors</u>”.</p> <p><u>Trustee:</u> Ankura Trust Company, as trustee and collateral agent for the holder of Exit Notes (the “<u>Exit Noteholders</u>”) under the Exit Notes Indenture (as defined below) (in such capacity, the “<u>Trustee</u>”).</p>
Exit Notes	<p>The Exit Notes shall be secured notes in an aggregate principal amount equal to \$100 million, which shall be issued by the Company to the Prepetition Secured Noteholders pursuant to the Plan.</p>
Fees, Expenses and Indemnity	<p>The indenture governing the Exit Notes (the “<u>Exit Notes Indenture</u>”) shall provide for the customary indemnity as well as reimbursement of the fees and expenses of the Trustee.</p>
Collateral Security	<p><u>Collateral:</u> All obligations (the “<u>Exit Notes Obligations</u>”) of the Exit Notes Obligors to the Exit Noteholders and the Trustee under the Exit Notes Indenture and the related Exit Notes and ancillary documents (the “<u>Exit Notes Documents</u>”) shall at all times be entitled to a silent second priority security interest in the DIP Term Loan Priority Collateral (as defined in the Plan, which, for the avoidance of doubt, shall not include Avoidance Actions (as defined in the Plan)) (i.e., fixed assets) and a silent third priority security interest in the DIP ABL Priority Collateral (as defined in the Plan, which, for the avoidance of doubt, shall not include Avoidance Actions (as defined in the Plan)) (i.e., inventory and receivables), subject to the terms and conditions of an intercreditor agreement in form and substance acceptable to the parties thereto.</p>
Issue Date	<p>The date following the Confirmation Date on which the Exit Notes are issued under the Exit Notes Indenture (the “<u>Issue Date</u>”) and under the Plan.</p>

¹ Capitalized term used but not defined herein have the meanings given to them in the *Summary of Exit Term Loan Facility*.

Tenor	6 years
Interest Rate	13 %, paid semi-annually in arrears, subject to payment of PIK interest as provided below, on the following terms: (i) PIK interest for first year (1-year holiday on cash interest); (ii) 100% cash-pay interest if LTM net leverage is below 2.75x; (iii) 50% PIK, 50% cash-pay interest if LTM net leverage is between 2.75x and 3.25x; and (iv) 100% PIK if LTM net leverage is greater than 3.25x; provided however that for periods on and after the fifth anniversary, the foregoing provisions will be adjusted to address applicable AHYDO rules.
Conditions to Issuance	<p><u>Conditions to Issuance</u></p> <ol style="list-style-type: none"> 1. Bankruptcy and Regulatory Matters. <ol style="list-style-type: none"> (a) The Bankruptcy Court shall have entered an order in form and substance reasonably acceptable to the Trustee and the Exit Noteholders confirming the Plan, and such order (the “<u>Confirmation Order</u>”) and the Plan shall be in full force and effect, and shall not (in whole or in part) have been reversed, modified, amended, stayed, vacated or subject to stay pending appeal. The Exit Notes Obligors shall be in compliance in all respects with the Confirmation Order and the Plan. (b) All of the conditions precedent to the effectiveness of the Plan shall have been satisfied or waived in accordance with the terms thereof. 2. Customary Issuance Documents. <ol style="list-style-type: none"> (a) All documented costs, fees, expenses (including, without limitation, reasonable legal fees) and other compensation contemplated by the Plan, Exit Notes Documents and this Term Sheet to be paid to the Trustee and the Exit Noteholders on the Issue Date shall have been paid to the extent due. (b) The Required Exit Noteholders and the Trustee shall be satisfied that the Exit Notes Obligors have complied with all other customary closing conditions, including, without limitation, the delivery to the Trustee of customary legal opinions, corporate records and documents from public officials, and officer’s certificates. (c) Execution and delivery by the Exit Notes Obligors of the Exit Notes Documents.

Reporting	Same as Prepetition Secured Notes, to be adjusted as appropriate in a manner consistent with current market terms covenants and conditions for second lien 144A-for-life high yield notes.
Covenants	Covenants consistent in all material respects with the existing notes, to be adjusted as appropriate to reflect the revised capital structure of the Exit Notes Obligors giving effect to consummation of the Plan, in a manner consistent with current market terms covenants and conditions for second lien high yield notes.
Events of Default	The Exit Notes Indenture will contain events of default (collectively, the “ <u>Notes Events of Default</u> ”) and remedies that are consistent with this Term Sheet and consistent in all material respects with the existing notes, to be adjusted as appropriate to reflect the revised capital structure of the Exit Notes Obligors giving effect to consummation of the Plan, in a manner consistent with current market terms covenants and conditions for second lien high yield notes.
Required Exit Noteholders	Exit Noteholders holding more than 50% of the aggregate principal amount of the then outstanding Exit Notes (the “ <u>Required Exit Noteholders</u> ”).
Voting, Amendments, Waivers & Modifications	Required Exit Noteholders, except for (i) release of collateral provisions requiring 75% approval or (ii) provision requiring approval by affected Exit Noteholders.
Call Protection	Call protection: [TBD]
Submission to Jurisdiction & Governing Law	Jurisdiction in state or federal court of competent jurisdiction in the state, county and city of New York, borough of Manhattan; waiver of any right to trial by jury. New York law shall govern the Exit Notes Indenture.
Counsel to the Exit Noteholders	Paul, Weiss, Rifkind, Wharton & Garrison LLP.
Counsel to the Debtors	Weil, Gotshal & Manges LLP.
Counsel to the Trustee	[Kilpatrick Townsend & Stockton LLP]

Exhibit D

Management Incentive Plan Term Sheet

[To Come]

Exhibit E

Employee Arrangements

	DEBTOR NAME	NAME OF EMPLOYEE	DESCRIPTION OF AGREEMENT	DATE OF AGREEMENT OR DATE EFFECTIVE
1	TOPS MARKETS, LLC	BARRETT, JACK	EMPLOYMENT AGREEMENT	8/20/2014
2	TOPS MARKETS, LLC	BARRETT, JACK	FIRST AMENDMENT TO EMPLOYMENT AGREEMENT	1/1/2015
3	TOPS MARKETS, LLC	BIEHLER, MICHAEL	OFFER LETTER	8/31/2015
4	TOPS MBO CORPORATION	BIEHLER, MICHAEL	SEVERANCE AGREEMENT	10/12/2015
5	TOPS MARKETS, LLC	BURGESS, LYNNE	EMPLOYMENT AGREEMENT	11/30/2015
6	TOPS MARKETS, LLC	COLGAN, DIANE	OFFER LETTER	3/31/2009
7	TOPS MBO CORPORATION	COLGAN, DIANE	SEVERANCE AGREEMENT	4/3/2014
8	TOPS MARKETS, LLC	CULHANE, JEFFREY	OFFER LETTER	4/12/2010
9	TOPS MBO CORPORATION	CULHANE, JEFFREY	SEVERANCE AGREEMENT	4/3/2014
10	TOPS MARKETS, LLC	CURCI, FRANK	EMPLOYMENT AGREEMENT	8/20/2014
11	TOPS MARKETS, LLC	CURCI, FRANK	FIRST AMENDMENT TO EMPLOYMENT AGREEMENT	1/1/2015
12	TOPS MARKETS, LLC	FERRI, RON	EMPLOYMENT AGREEMENT	10/23/2014
13	TOPS MARKETS, LLC	FERRI, RON	FIRST AMENDMENT TO EMPLOYMENT AGREEMENT	1/1/2015
14	TOPS MARKETS, LLC AS SUCCESSOR TO TOPS MARKETS, INC.	FITZGERALD, THOMAS	OFFER LETTER	5/7/1999
15	TOPS MBO CORPORATION	FITZGERALD, THOMAS	SEVERANCE AGREEMENT	4/3/2014
16	TOPS MARKETS, LLC	HANSON, KRISTEN	OFFER LETTER	6/22/2016
17	TOPS MARKETS, LLC	HANSON, KRISTEN	SEVERANCE AGREEMENT	8/24/2016
18	TOPS MARKETS, LLC	LANGLESS, DAVID	EMPLOYMENT AGREEMENT	10/20/2014
19	TOPS MARKETS, LLC	LANGLESS, DAVID	FIRST AMENDMENT TO EMPLOYMENT AGREEMENT	1/1/2015
20	TOPS MARKETS, LLC	LUMADUE, MARK	OFFER LETTER	9/27/2016
21	TOPS MARKETS, LLC	LUMADUE, MARK	SEVERANCE AGREEMENT	9/30/2016
22	TOPS MARKETS, LLC	MCCAFFREY, JOHN	OFFER LETTER	2/11/2010
23	TOPS MBO CORPORATION	MCCAFFREY, JOHN	SEVERANCE AGREEMENT	4/3/2014
24	TOPS MBO CORPORATION	METZ, MICHAEL	SEVERANCE AGREEMENT	4/3/2014
25	TOPS MARKETS, LLC AS SUCCESSOR TO TOPS MARKETS, INC.	PATTI, MICHAEL	OFFER LETTER	2/2/2010
26	TOPS MBO CORPORATION	PATTI, MICHAEL	SEVERANCE AGREEMENT	4/3/2014

	DEBTOR NAME	NAME OF EMPLOYEE	DESCRIPTION OF AGREEMENT	DATE OF AGREEMENT OR DATE EFFECTIVE
27	TOPS MARKETS, LLC	PERSONS, JOHN	EMPLOYMENT AGREEMENT	8/20/2014
28	TOPS MARKETS, LLC	PERSONS, JOHN	FIRST AMENDMENT TO EMPLOYMENT AGREEMENT	1/1/2015